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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. BISHOP of Utah).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 23, 2003.

I hereby appoint the Honorable ROB BISHOP to act as Speaker pro tempore on this day.

J. DENNIS HASTERT
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 33 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ADERHOLT) at 2 p.m.

PRAYER

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

Lord God of covenant love, your servant Joshua said to the people: ''Sanctify yourselves, for tomorrow the Lord will perform wonders among you.''

In a Nation You have chosen to dwell, Your people look for signs of Your love and blessing.

But before we can see in ordinary events wonders of Your own making, we must embrace discipline and be purified; for only those clean of heart shall see God.

May the Members of Congress, believing in Your presence in their midst, prove to be leaders of the American people.

Purify their intent to serve You by providing what is best for Your people.

May this Nation be obedient to Your ordinances and thereby increase its expectations.

Lead us to see wondrous deeds accomplished in our own day, and come to know more deeply Your goodness so we proclaim You alone are the one true God now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. GREEN of Wisconsin 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 without amendment a bill and a Concurrent Resolution of the House of the following titles:

H.R. 2312. An act to amend the Communications Satellite of 1962 to provide for the orderly dilution of the ownership interest in Inmarsat by former signatories to the Inmarsat Operating Agreement.

H. Con. Res. 139. Concurrent resolution authorizing printing of the brochures entitled ''How Our Laws Are Made'' and ''Our American Government'', the publication entitled ''Our Flag'', the document-sized, annotated version of the United States Constitution, and the pocket version of the United States Constitution.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 504. An act to establish academies for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes.

S. 686. An act to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 20, 2003.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on June 20, 2003 at 10:25 a.m.:

That the Senate agreed to conference report S. 342.

That the Senate passed without amendment H.R. 658.

Printed on recycled paper.

With best wishes, I am
Sincerely,
MARTHA C. MORRISON
Deputy Clerk.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 20, 2003.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House on June 20, 2003, at 1:45 p.m. and said to contain messages from the President whereby he submits a copy of a notice filed earlier with the *Federal Register* continuing the emergency with respect to the Western Balkans first declared in Executive Order 13219 of June 26, 2001, and where by he submits a 6-month periodic report in accordance with 50 USC 1641 (c) and 50 USC 1703 (c) on the national emergency with respect to the Western Balkans.

With best wishes, I am
Sincerely,
MARTHA C. MORRISON,
Deputy Clerk.

SIX-MONTH REPORT ON NATIONAL EMERGENCY WITH RESPECT TO WESTERN BALKANS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–86)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Consistent with section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month report prepared by my Administration on the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 20, 2003.*

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO WESTERN BALKANS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–87)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice, stating that the Western Balkans emergency is to continue in effect beyond June 26, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on June 25, 2002, 67 Fed. Reg. 42703.

The crisis constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting, (i) extremist violence in the former Yugoslav Republic of Macedonia, and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo, that led to the declaration of a national emergency on June 26, 2001, has not been resolved. Subsequent to the declaration of the national emergency, acts obstructing implementation of the Ohrid Framework Agreemenet of 2001 in the former Yugoslav Republic of Macedonia, have also become a concern. All of these actions are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to the Western Balkans and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 20, 2003.*

PRIVILEGED REPORT REQUESTING PRESIDENT TO TRANSMIT TO HOUSE DOCUMENTS RELATING TO IRAQ'S WEAPONS OF MASS DESTRUCTION

Mr. GREEN of Wisconsin, from the Committee on International Relations, submitted a privileged report (Rept. No. 168) on the resolution (H. Res. 260) requesting the President to transmit to the House of Representatives documents or other materials in the President's possession relating to Iraq's weapons of mass destruction, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on 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.

Record votes on postponed questions will be taken after 6:30 p.m. today.

EXPRESSING SYMPATHY FOR VICTIMS OF ALGERIAN EARTHQUAKE

Mr. GREEN of Wisconsin. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 264) expressing sympathy for the victims of the devastating earthquake that struck Algeria on May 21, 2003.

The Clerk read as follows:

H. RES. 264

Whereas, on the evening of May 21, 2003, a devastating and deadly earthquake of a magnitude of 6.8 on the Richter scale with a depth of 6 miles struck northern Algeria, killing more than 2,260 people, injuring more than 10,000, and leaving more than 200,000 homeless;

Whereas the earthquake of May 21, 2003, has left thousands of buildings in ruins and has severely disrupted health services, water supply lines, electricity, and telecommunications in Algeria and affected cities;

Whereas severe aftershocks with magnitudes greater than 4.0 have continued to terrify the people of Algeria and hamper rescue efforts;

Whereas the strength, courage, and determination of the Government and people of Algeria has been displayed since the earthquake;

Whereas the people of the United States and Algeria share strong friendship and mutual respect;

Whereas the United States airlifted to the earthquake-affected population 17,000 blankets, 1800 tents, electrical equipment, water purification kits, and 3 medical supply kits that will benefit 10,000 people over 3 months;

Whereas the United States has released $50,000 to the Algerian Red Crescent Society for emergency relief supplies; and

Whereas the United Nations Children's Fund (UNICEF) launched an emergency appeal for humanitarian and relief assistance to address the devastation caused by the powerful earthquake: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its deepest sympathies to the people of Algeria and particularly to the families of the victims and the survivors for the tragic losses suffered as a result of the earthquake of May 21, 2003;

(2) expresses its support for the people and to the Government of Algeria as they continue their efforts to rebuild their cities and their lives;

(3) expresses support for humanitarian assistance provided by the United States Agency for International Development and other American and international relief organizations;

(4) recognizes the important role that is being played by the United States and the international community in providing assistance to alleviate the suffering of the people of Algeria; and

(5) encourages a continued commitment by the United States and other countries and international organizations to the rebuilding of the earthquake-affected areas in Algeria.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Wisconsin (Mr. GREEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

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

GENERAL LEAVE

Mr. GREEN of Wisconsin. 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. 264.

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

There was no objection.

Mr. GREEN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from California (Mr. LANTOS) for bringing H. Res. 264, expressing sympathy for the victims of the devastating earthquake that struck Algeria on May 21, 2003, before us today.

As many of you know, on May 21, an earthquake registering 6.8 on the Richter scale struck northern Algeria, 45 miles east of the capital of Algiers. This was followed with a series of aftershocks, five with magnitudes greater than 5.0, and at least 19 with magnitudes ranging between 4.0 and 4.9. These were the worst quakes to strike Algeria since 1980.

The impact was devastating. 2,268 Algerians were killed, making this deadlier than all of the other earthquakes in the world over the past 2 years combined, including the 2002 earthquake in Afghanistan which killed 1,000.

Thousands of buildings have been destroyed, and health services, water supplies, electricity and telecommunications have been severely disrupted. Confidence in the government has also been shaken as press reports link the high death toll with poor building construction and mismanagement of the housing sector.

The international response to this disaster has been vigorous. The U.S. contribution to the relief effort is currently valued at $1.6 million, including $827,107 in grants and relief supplies from the U.S. Agency for International Development Office of Foreign Disaster Assistance; $424,000 in relief supplies from the Department of Defense/Defense Security Cooperation Agency; and $368,000 in relief supplies from the Department of Defense/U.S. European Command. For other donors, the United Nations Office for Coordination of Humanitarian Affairs and the International Federation of the Red Cross and Red Crescent Societies are taking the lead.

Through this robust response, major catastrophes have been diverted, including cholera outbreaks. However, there is still a long way to go on the path towards recovery. Thousands of homes need to be rebuilt, and structures able to withstand earthquakes will need to be erected.

The great American educator, Catherine Beecher, said, ''The delicate and infirm go for sympathy, not to the well and buoyant, but to those who have suffered like themselves.'' Unfortunately, we Americans are no strangers to tragedy and loss.

Mr. Speaker, the people of Algeria and their government stood with us after our own tragedy of September 11, 2001. They have been stalwart allies in our war on terrorism, and now it is our turn to aid our friends in a time of great need. It is with this in mind that we now express our solidarity with and our sympathy for those who have suffered in Algeria.

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

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

Mr. Speaker, I rise in strong support of this resolution, which I had the privilege of writing.

Mr. Speaker, I want to express at the outset my appreciation to my able assistant, Robin Roizman, for working on this resolution.

Mr. Speaker, I want to express my thanks to my colleagues, the gentleman from Wisconsin (Mr. GREEN); the distinguished chairman of our committee, the gentleman from Illinois (Mr. HYDE); the gentleman from Indiana (Mr. PENCE); and the gentleman from Pennsylvania (Mr. PITTS), for joining me in introducing this important resolution.

Mr. Speaker, H. Res. 264 expresses the deepest sympathy of the American people and of this Congress for the victims of the devastating earthquake that struck Algeria on May 21, 2003. This was the most tragic earthquake to hit that country in almost a quarter century. With a Richter scale reading of 6.8, the earthquake devastated the country, severely disrupted its health services, water supply, electricity and telecommunications.

The earthquake and its aftershocks have killed over 2,000 innocent people of Algeria, injured over 10,000, and left over 200,000 Algerian citizens homeless.

We immediately responded to this disaster by providing emergency humanitarian supplies. My resolution encourages our administration to continue providing assistance to the people of Algeria in this very difficult time.

The resolution expresses our sympathy for the Algerian people and calls on our administration to monitor conditions there and to continue providing all necessary assistance to the government and people of Algeria.

I want to note, Mr. Speaker, that we have in the gallery the distinguished Ambassador from Algeria, and I want to express to him personally our deep support and commitment to help in these difficult days for his country.

□ 1415

I urge all of my colleagues to support H. Res. 264.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ADERHOLT). All Members are reminded not to introduce or refer to people in the balcony.

Mr. GREEN of Wisconsin. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. GREEN) that the House suspend the rules and agree to the resolution, H. Res. 264.

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. LANTOS. 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.

COMMENDING PEOPLE OF THE REPUBLIC OF KENYA FOR CONDUCTING FREE AND FAIR ELECTIONS AND PEACEFUL AND ORDERLY TRANSFER OF POWER

Mr. GREEN of Wisconsin. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 177) 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, as amended.

The Clerk read as follows:

H. RES. 177

Whereas on December 27, 2002, the Republic of Kenya successfully held presidential, parliamentary, and local elections;

Whereas these elections were widely praised by objective international observers as free and fair;

Whereas the Department of State stated that with these elections the Kenyan people ''have made a strong demonstration of their democratic commitment and established an important example for the region and for the world'';

Whereas the European Union stated that ''the overall conduct of the elections constitutes an example for other countries in the region'';

Whereas these elections signal a major step forward for Kenyan democracy, particularly when compared with other elections held in Kenya since it became an independent state in 1963;

Whereas the transition of power put in motion by these elections culminated on December 30, 2002, when former President Daniel Toroitich arap Moi peaceably transferred the Kenyan presidency to President Mwai Kibaki; and

Whereas these elections and the subsequent transfer of power from leader to leader represent the birth of a successful new democracy in Kenya: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the people of the Republic of Kenya for conducting free and fair elections, and the Government of Kenya for its successful completion of a peaceful and orderly transition of power;

(2) expresses its desire to see this new democracy in Kenya continue to thrive, as it has in the months following the 2002 elections;

(3) urges other African countries to look to Kenya as an example of a working democracy in action and to follow the example set by the people of Kenya during this recent election process;

(4) reaffirms the friendship that exists between the people of the United States and people of Kenya, as two nations bound together by the shared values of democracy;

(5) offers its commitment to working to ensure democracy is able to grow and flourish as Kenya moves into the challenging future that lies ahead; and

(6) commends the Government of Kenya for its commitment and concrete steps taken—

(A) to strengthen democracy, human rights and the rule of law;

(B) to combat corruption;

(C) to provide free and universal primary education;

(D) to fight against HIV/AIDS; and

(E) to support the United States in the war on terrorism.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. GREEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

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

Mr. GREEN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are many reasons for us to agree to this resolution and to commend the people and the Government of Kenya. First and foremost, just months ago Kenya conducted historic national elections. Historic because they were nonviolent and free and fair. People of Kenya rose up and rejected a trend of unfair antidemocratic elections that have marred not just Kenya but far too many countries and elections on that continent.

As a firsthand observer of those elections, I can testify to the determination that so many Kenyans and so many nongovernmental organizations showed in building a process for voter registration and voter education and ballot security that is commendable. Secondly, Mr. Speaker, we should commend Kenya for what those elections were all about. The now president, recently elected President Mwai Kibaki and his party won the presidency and the majority of the Kenya Parliament on a platform of rooting out corruption and reforming the government process and just as importantly offering the nation and the Kenyan people free primary school education. This platform was not only popular, obviously, but it was the right thing to do. It is a crucial part of a prescription for a brighter future for a country and a people of enormous potential. And while the new administration is young, it seems determined to follow through on its pledges.

The third reason, Kenya is a crucial ally and a good friend to America. We have a military access agreement with the government of Kenya. Kenya is a staunch ally and friend even though it is located in a troubled region; and as we all know vividly and tragically, Kenya has been the site of horrible and deadly acts of terrorism aimed at Western interests. Just last week we praised and thanked Kenya for its handling of the many refugees who have fled from Kenya's troubled neighbors.

Mr. Speaker, I ask that we commend Kenya for its successful elections and its announced plans to attack corruption and its plans to extend basic education. I ask that we thank Kenya for its commitment to fighting terrorism shoulder to shoulder with the United States, and I ask that we encourage Kenya to follow through in its promising first steps since the administration took over. The future can be right, it can be bright, and it can be uplifting if they follow through on what they have started.

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

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

Mr. Speaker, I rise in strong support of this resolution. First, I want to thank the gentleman from Wisconsin (Mr. GREEN), my good friend and colleague, a distinguished member of the Committee on International Relations who has brought special expertise on Africa to our committee, for introducing this resolution which draws attention to the highly successful elections held recently in Kenya.

Kenya, Mr. Speaker, has traveled a bumpy road as an emerging democracy and has struggled with corruption, ethnic politics and questionable elections. It sounds like some other countries we know. Yet throughout its 40 years of independence, the Kenyan people have kept the dream of democracy alive, strived to build strong civic institutions, and upheld the ideals of democracy; and now this has paid off.

Mr. Speaker, Kenya is one of our strongest allies in our global war against terrorism, and it has paid a very high price. Many civilian lives were taken in the attacks on our embassy in Nairobi and a major tourist hotel. May I mention parenthetically, Mr. Speaker, that just this past weekend we were again forced to close our embassy in Nairobi, our new embassy because of terrorist threats.

The Kenyan economy, which is so heavily based on tourism, has suffered enormously. Yet the government of Kenya remains a staunch ally in our global fight against terrorism, a democracy in the face of this vulnerability.

Mr. Speaker, our resolution puts the U.S. Congress on record, supporting the people and the leaders of Kenya as they strive to build their democracy. They are on the right track. I hope, Mr. Speaker, that congressional support does not end with this resolution. Kenya continues to need our assistance in consolidating its democracy. The country needs our help in preventing future terrorist attacks and in rebuilding their tourism industry. I urge all of our colleagues to support H. Res. 177.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of H. Res. 177 which commends the people of the Republic of Kenya for conducting fair elections and maintaining a civil democracy.

Kenya, once a nation ripe with political corruption and intertribal conflict, has now established itself as an embodiment of democratic principle. Prior to the elections held in 2002, Kenya's system of government was used primarily as a means through which to achieve personal gain rather than the development of policies designed for the public good. The retirement of Daniel Arap Moi, after serving as president for two decades, ushered in a new beginning for Kenya's quest for political stability and overall sustainability. While intense power struggles and backroom deals among various political affiliations once permeated Kenya's government, the fair election of President Kibaki has given way to nation of openness and tolerance of different political ideologies within the scope of a diverse nation.

The peaceful transition of power has enabled Kenya to take on a more prominent position in the global community. Kenya has served an important role in fostering regional stability in the Horn of Africa. Kenya has invested a great deal of energy and resources in supporting the ongoing negotiations aimed at putting an end to the seemingly endless civil war being waged in Sudan. As the third largest economy in sub-Saharan Africa, Kenya has the potential to become one of the most influential countries in Africa.

Today Kenya remains a high priority for U.S. foreign policy interests. Kenya has remained a consistent supporter of U.S. efforts to combat terrorism on a global scale. However the U.S. should not simply reduce its partnership with Kenya to that of military and security concerns. Rather we should use this time of political calm to expand our range of interest to issues of human rights, democratization, and economic accountability. International donor agencies continue to fund a wide range of programs throughout the country as it is seen as nation of great possibility for economic growth and development. Research institutions, like the Center for Disease Control & Prevention, have made considerable investments in Kenya's public health system. Kenya's peaceful democratic transition has served as a humanitarian platform that other countries may be able to emulate. This point in time is a particularly critical juncture for Kenya. It will be important for Kenya to maintain its newfound sense of democracy as it attempts to sustain both its political as well as its economic stability.

Therefore I stand in solidarity with my colleagues in support of H. Res. 177 in hopes that Kenya continues along the path toward a peaceful democratic state.

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

Mr. GREEN of Wisconsin. Mr. Speaker, first I would like to thank the gentleman from California (Mr. LANTOS) for his gracious and kind words.

Mr. Speaker, I have no further requests for time, and I yield back the balance my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. GREEN) that the House suspend the

rules and agree to the resolution, H. 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. LANTOS. 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.

COMMENDING THE SIGNING OF THE UNITED STATES-ADRIATIC CHARTER

Mr. GREEN of Wisconsin. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 209) commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia, as amended.

The Clerk read as follows:

H. CON. RES. 209

Whereas the United States has an enduring interest in the independence, territorial integrity, and security of Albania, Croatia, and The Former Yugoslav Republic of Macedonia and supports their full integration in the community of democratic Euro-Atlantic states;

Whereas Albania, Croatia, and Macedonia have taken clear and positive steps to advance their integration into Europe by establishing close cooperative relations among themselves and with their neighbors, as well as their promotion of regional cooperation;

Whereas Albania, Croatia, and Macedonia have already contributed to European security and to the peace and security of southeast Europe through the resolution of conflicts in the region and their regional cooperation in the Southeast Europe Defense Ministerial;

Whereas on May 2, 2003, the United States-Adriatic Charter was signed in Tirana, Albania, by Secretary of State Colin Powell, Albanian Foreign Minister Ilir Meta, Croatian Foreign Minister Tonino Picula, and Macedonian Foreign Minister Ilinka Mitreva;

Whereas the Adriatic Charter affirms the commitment of Albania, Croatia, and Macedonia to the values and principles of the North Atlantic Treaty Organization (NATO) and to joining the Alliance at the earliest possible time;

Whereas Secretary of State Powell stated that the Adriatic Charter "reaffirms our partners' dedication to work individually, with each other, and with their neighbors to build a region of strong democracies powered by free market economies . . . [i]t underscores the importance we place on their eventual full integration into NATO and other European institutions . . . [a]nd most importantly, the Charter promises to strengthen the ties that bind the peoples of the region to the United States, to one another, and to a common future within the Euro-Atlantic family"; and

Whereas 75 Albanian special forces troops were sent to Iraq as part of the coalition forces during Operation Iraqi Freedom, 29 Macedonian special forces troops were sent to Iraq as part of the postwar stabilization force, and Albania, Croatia, and Macedonia all contributed to the stabilization forces in Afghanistan, as signs of their commitment to promote international freedom and security: Now, therefore, be it

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

(1) strongly supports the United States-Adriatic Charter and commends Albania, Croatia, and Macedonia for their continued efforts to become full-fledged members of the North Atlantic Treaty Organization (NATO) and the European Union;

(2) urges NATO to invite Albania, Croatia, and Macedonia to join NATO as soon as each of these countries respectively demonstrates the ability to assume the responsibilities of NATO membership through the Membership Action Plan;

(3) welcomes and supports the aspirations of Albania, Croatia, and Macedonia to join the European Union at the earliest opportunity;

(4) recognizes that Albania, Croatia, and Macedonia are making important strides to bring their economic, military, and political institutions into conformance with the standards of NATO and other Euro-Atlantic institutions; and

(5) commends Secretary of State Powell for his personal support of the Adriatic Charter.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. GREEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

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

GENERAL LEAVE

Mr. GREEN of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the concurrent resolution under consideration.

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

There was no objection.

Mr. GREEN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the concurrent resolution before us expresses the support of the Congress for the Adriatic Charter, as it was reported favorably by the Committee on International Relations on June 12.

The charter was signed on May 2 in the Albanian capital of Tirana by Secretary of State Powell and the foreign ministers of Albania, Croatia, and the former Yugoslav Republic of Macedonia, the three remaining NATO-aspirant nations.

The Adriatic Charter pledges the United States to support efforts by Albania, Croatia, and Macedonia to join Euro-Atlantic institutions like NATO and the European Union. In this agreement, the three aspirant nations commit themselves to accelerate their democratic reforms, protect human rights, implement market-oriented economic policies, and enhance their mutual cooperation. Under the Adriatic Charter, the United States and these three countries pledge to consult whenever the security of one of them is threatened. For their part, the aspirant countries promise to continue defense reforms and to undertake steps to enhance border security so they can contribute to regional stability.

Mr. Speaker, this Member urges the House to agree to this concurrent resolution.

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

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

Mr. Speaker, I rise in strong support of this resolution. First, I want to commend the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from New York (Mr. ENGEL) and the gentleman from Florida (Mr. WEXLER) for their leadership on this important resolution, and the gentleman from Illinois (Mr. HYDE), our chairman, for moving it forward so expeditiously.

Our resolution celebrates cooperation and forward-thinking among the nations of the Balkans, a region that just a few years ago was engulfed in ethnic violence and strife. Our Nation, Mr. Speaker, has an enduring interest in the independence, territorial integrity, and security of Albania, Croatia, and Macedonia and supports their full integration in the community of democratic Euro-Atlantic states. The Adriatic Charter affirms the commitment of Albania, Croatia, and Macedonia to the values and principles of NATO and to their joining the Atlantic Alliance at the earliest practical time.

Albania, Croatia, and Macedonia have taken positive steps to advance their integration into Europe and have already contributed to European security and to the peace and security of southeast Europe through the resolution of severe conflicts in the region.

Mr. Speaker, I commend all of my colleagues who have worked on this concurrent resolution. I urge every Member of this House to support its passage.

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

Mr. GREEN of Wisconsin. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER), the chairman of the Europe Subcommittee.

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

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. GREEN) for handling this concurrent resolution and for the support of the gentleman from California (Mr. LANTOS), as well, on this very important resolution.

I want to begin by of course expressing my strong support for the resolution and thanking the distinguished gentleman from New York (Mr. ENGEL), one of our colleagues on the Committee on International Relations, for authoring the legislation and for working with the staff of the subcommittee and the full committee. He has long been a champion of Albania in the House, and I am pleased to be a cosponsor of this resolution.

As mentioned by the gentleman from Wisconsin (Mr. GREEN), this is a pledge

also on the part of Albania, Croatia, and Macedonia through what they did in Tirana for full continued support for moving towards NATO membership.

Under the Adriatic Charter, the United States and these three countries pledge to consult whenever the security of one of them is threatened. For their part, the aspirant countries promise to continue defense reforms and to undertake steps to enhance border security so that they can contribute to regional stability.

Some of the language in the Adriatic Charter might look familiar. Indeed, this document was based on the successful Baltic Charter, which was signed in 1998 between Estonia, Latvia, and Lithuania. Five years ago few observers would have been so bold as to predict that those three countries occupied for 50 years by the Soviet Union and then Russia-to-be would be poised to join NATO and the EU next year. The Baltic Charter signifies an American commitment to help those three countries in their successful efforts to join NATO and the EU. Today, the Adriatic Charter holds the potential for helping Albania, Croatia, and Macedonia to achieve the same goals.

□ 1430

This Member, of course, recognizes and commends the efforts of Secretary of State Powell and those of our diplomats working the European and Eurasian Bureau of the State Department for their initiative in crafting the Adriatic Charter.

As NATO prepares to admit seven new countries next year, it is important that these three remaining candidate countries are not forgotten. NATO's door remains open to all who are willing and able to assume the responsibilities of membership, and it is important that the Congress assert that it is the achievements of Albania, Croatia, and Macedonia that will determine when their aspirations for accession will be realized. Each of them are working through membership action plans to meet NATO's standards, and each will be judged on their own accomplishments.

Mr. Speaker, already, these three nations have acted like allies. All three countries have sent troops to the International Security Assistance Force in Afghanistan. In addition, Albania sent 75 special operations troops to take part in Operation Iraqi Freedom, and Macedonia this month has sent 29 special forces troops to Iraq to take part in the stabilization operations there. We appreciate their contributions and look forward to the day when they are ready to take on the full responsibilities of NATO membership.

Mr. Speaker, the Adriatic Charter is also one more step towards President Bush's goal of a Europe whole and free from the Baltic to the Black Sea. This Member commends and congratulates the people of Albania, Croatia, and Macedonia for their initiative and progress, and this Member urges the House to pass this resolution.

Mr. ENGEL. Mr. Speaker, I rise in support of H. Con. Res. 209, which commends the signing of the U.S. Adriatic Charter. As the author of H. Con. Res. 209, I am honored that the House is now considering this important resolution.

On May 2, 2003, the U.S. Adriatic Charter was signed in Tirana, Albania by Secretary of State Colin Powell and the Foreign Ministers of Albania, Croatia, and the Former Yugoslav Republic of Macedonia. As Secretary Colin Powell noted when he signed the document, it is remarkable that the agreement was signed in Albania, a country once known only for its isolation and distance from Western principles. Today, Tirana is a capital filled with energy as it continues its opening to Europe. Macedonia and Croatia have seen similar changes.

As NATO has expanded through other countries of Europe, several former Yugoslav nations in South Central Europe were excluded. They just were not ready for membership. Today, three of those nations, Albania, Croatia, and Macedonia are now moving to make the needed changes and reforms so that they can join the North Atlantic structures.

The U.S. Adriatic Charter embodies a commitment by Alabania, Croatia, and Macedonia to the values and principles of NATO and a declaration of their intent to join NATO as soon as they meet Alliance standards. I strongly support their efforts to advance toward NATO membership and having Secretary Powell sign the Charter puts the United States firmly in support of their efforts to join NATO when they are ready.

By passing this resolution today, Congress will add its voice, by ''urg[ing] NATO to invite Albania, Croatia, and Macedonia to join NATO as soon as these countries demonstrate the ability to assume the responsibilities of NATO membership.''

H. Con. Res. 209 also welcomes and supports the aspirations of Albania, Croatia, and Macedonia to join the European Union at the earliest opportunity and recognizes that the three countries are making important strides to bring their economic, military, and political institutions into conformance with the standards of NATO and other Euro-Atlantic institutions. Finally, our resolution also commends Secretary Powell for his strong personal support of the resolution, as demonstrated by his travel to the region to sign the document.

Mr. Speaker, as the sponsor of H. Con. Res. 209, I think this is an appropriate forum to publicly thank Albania, for sending 75 commandos to Iraq to fight along side our troops. It is my hope that Albania, one of only three European countries to send ground troops to fight in the war, would be high on Defense Department's list when it considers the realignment of and new bases for American forces around the world.

Finally, I would like to thank the chairman of the Europe Subcommittee, Mr. BEREUTER, and his staff for their cooperation and support as we drafted this resolution, H. Con. Res. 209. I would also like to thank the ranking member of the subcommittee, Mr. WEXLER, for his support.

Again, I strongly support H. Con. Res. 209 and urge my colleagues to support its passage.

Mr. Speaker, I ask unanimous consent to include in the portion of the CONGRESSIONAL RECORD containing the debate on H. Con. Res. 209, regarding the U.S. Adriatic Charter, letters from John Kraljic, President of the National Federation of Croatian Americans, His Excellency Nikola Dimitrov, Ambassador of the former Yugoslav Republic of Macedonia, and Martin Vulaj, Executive Director of the National Albanian American Council.

EMBASSY OF THE
AMBASSADOR REPUBLIC OF MACEDONIA,
Washington, DC, June 12, 2003.

Hon. Representative ELIOT E. ENGEL,
House of Representatives, Washington, DC.

DEAR MR. ENGEL: Allow me to express my sincere gratitude for your initiative in adopting the resolution H. Con. Res. 209 by the Committee on Foreign Relations of the House of the Representatives regarding the signing of the United States-Adriatic Charter, charter of partnership among the United States, Albania, Croatia, and Macedonia.

Let me assure you one more time that Macedonia, along with Albania and Croatia is strongly committed to the values and principles of the NATO and is willing to joining the Alliance at the earliest possible time.

My country already contributes to European security and to the peace and security of southeast Europe through peaceful resolution of the conflicts and regional cooperation.

Macedonia strongly supports the endeavors of the Government of the United States to bring security, stability and democracy in Iraq and Afghanistan. My Government has sent troops to Iraq as part of the coalition forces to contribute the success of the operation Iraqi Freedom, and to Afghanistan.

Dear Mr. Engel, I look forward for future opportunity to exchange our views, and thank you again for your support to my country.

Sincerely,

Nikola Dimitrov.

NATIONAL FEDERATION OF CROATIAN AMERICANS CULTURAL FOUNDATION,
Washington, DC, June 19, 2003.

Hon. ELIOT ENGEL,
Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR CONGRESSMAN ENGEL: Thank you for the introduction of H. Con. Res. 209 and your important service in the U.S. Congress on the Europe Subcommittee of the House International Relations Committee.

The National Federation of Croatian Americans (NFCA) understands that your Concurrent Resolution commending the signing of the United States-Adriatic Charter—a charter of partnership among the United States, Albania, Croatia, and Macedonia—has been voted out of the Full Committee and awaits House Floor action. Please be aware that the NFCA fully supports the passage of this Resolution by both the House of Representatives and the Senate.

NFCA has long supported the Republic of Croatia's request for membership in the North Atlantic Treaty Organization (NATO). We believe it is a natural and important extension of Croatia's integration into important western security and related alliances since the Republic's reestablishment as a viable nation-state over ten years ago. Croatia is the most stable and economically developed country in southeastern Europe. Its democratic structure has been strongly established as evidenced by three national elections since 1990. Croatia has a wide range of political parties and a critical and independent press. Economically Croatia's Gross Domestic Product is greater than that of most of its neighbors, some of whom have already joined NATO. Furthermore, since the time Croatia claimed its independence in the

early 1990s, it has adopted American and NATO military techniques. Croatia currently participates as full partner in the U.S. and NATO war on international terrorism.

The NFCA is a Washington, DC-based national umbrella organization that represents over 20 Croatian American groups and 130,000 members. We have promoted the early admittance of Croatia into NATO and, indeed, believe that Croatia should be invited to join NATO as soon as it meets the criteria for membership. Our organization believes the passage of this Concurrent Resolution by the U.S. House of Representatives will further underline the need to bring Croatia into NATO at the earliest opportunity. The NFCA fully supports the passage of H. Con. Res. 209.

Thank you once again for your leadership on this important Resolution.

Sincerely,

JOHN KRALJIC,
President.

NATIONAL ALBANIAN AMERICAN COUNCIL,
Washington, DC, June 23, 2003.

Hon. ELIOT ENGEL,
Co-Chairman of the Albanian Issues Caucus, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR CONGRESSMAN ENGEL: The National Albanian American Council wishes to express its grateful thanks to you for your initiative in introducing H. Con. Res. 209, which passed by the House International Relations Committee regarding the signing of the United States—Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia.

We believe that this is an important step in paving the way for Albania, Croatia, and Macedonia to become members of NATO in the future. It also reaffirms their determination to work individually and with each other to build a region of strong democracies powered by a free market economy.

We wish to thank you Congressman Engel for your outstanding work and your commitment to the development and democratization of the Balkans. The National Albania American Council wishes to recognize your outstanding contributions and your leadership in the Albania Issues Caucus on behalf of the Albania American Community.

Sincerely,

MARTIN VULAJ,
Executive Director.

Mr. RADANOVICH. Mr. Speaker, I rise today in support of H. Con. Res. 209. I am proud to support a resolution which commends the signing of the United States-Adriatic Charter and urges NATO to invite Croatia to become a member.

I have long supported the Republic of Croatia's request for membership in the NATO, and I believe it is a natural and important extension of Croatia's integration into important western security and related alliances since the Republic's reestablishment as a viable nation-state over 10 years ago.

Croatia is one of the most stable and economically developed countries in the southeastern Europe. Its democratic structure has been strongly established as evidence by three national elections since 1990.

Croatia has a wide range of political parties and a critical and independent press. Economically, Croatia's Gross Domestic Product is greater than that of most of its neighbors, some of whom have already joined NATO.

In addition, Croatia currently participates as a full partner in the United States and NATO war on international terrorism. Finally, I believe the passage of this concurrent resolution will further underline the need to bring Croatia into NATO at the earliest opportunity.

Mr. GREEN of Wisconsin. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on the motion offered by the gentleman from Wisconsin (Mr. GREEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209, 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. LANTOS. 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.

FAMILY FARMER BANKRUPTCY RELIEF ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2465) to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The Clerk read as follows:

H.R. 2465

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 ''Family Farmer Bankruptcy Relief Act of 2003''.

SEC. 2. SIX-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12 OF TITLE 11, UNITED STATES CODE, IS REENACTED.

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105–277 (11 U.S.C. 1201 note) is amended—

(1) by striking ''July 1, 2003'' each place it appears and inserting ''January 1, 2004''; and

(2) in subsection (a)—

(A) by striking ''December 31, 2002'' and inserting ''June 30, 2003''; and

(B) by striking ''January 1, 2003'' and inserting ''July 1, 2003''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on July 1, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Wisconsin (Ms. BALDWIN) 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. 2465.

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, I rise in support of H.R. 2465, the Family Farmers Bankruptcy Relief Act of 2003.

Earlier this year, the National Oceanic and Atmospheric Administration reported that certain parts of our Nation, particularly the western and Great Plains States, were experiencing ''one of the worst droughts in 108 years.'' Other parts of the country, like the Northeast, are currently enduring seemingly unending days of rainy weather.

While bad weather may be merely an inconvenience for some of us, uncontrollable weather conditions represent just one of the many difficult challenges that confront family farmers. Like many small businesses, family farmers must also endure and react to rising energy costs, volatile marketplace conditions, and increasing competition from larger businesses. Unfortunately, these economic forces can negatively affect the financial stability of the family farmer.

In response to the particularized needs of family farmers in financial distress, chapter 12 of the Bankruptcy Code was enacted in 1986 as a part of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act. Although originally enacted on a temporary basis to address the farming crisis of the 1980s, chapter 12 has been extended on nine occasions in recognition of the vital relief it offers to family farmers in financial distress. Unless further extended, chapter 12 will sunset at the end of this month.

It is crucial that this specialized form of bankruptcy relief for family farmers not be allowed to sunset for two fundamental reasons. First, family farmers, absent chapter 12, would be forced to file for bankruptcy relief under the Bankruptcy Code's other alternatives, none of which work as well for them as does chapter 12.

Chapter VII of the Bankruptcy Code, for instance, would require a farmer to liquidate; that is, sell the family farm to pay the claims of the farmer's creditors. Many farmers would be precluded from choosing bankruptcy relief under chapter 13 of the Bankruptcy Code because of its restrictive eligibility standards. Furthermore, Chapter XI, the Bankruptcy Code's business reorganization alternative, is not farmer-friendly in various respects, as it often entails an expensive and time-consuming process that does not readily accommodate the special needs of farmers.

Second, recent statistics demonstrate that there is not only a continuing need for chapter 12, but that this need is apparently increasing. According to the Administrative Office of the United States Courts, chapter 12 bankruptcy filings jumped by more than 62 percent over the past year. I introduced H.R. 2465 to extend chapter 12 for an additional 6 months through December 31, 2003, and thereby maintain the status quo while the Congress completes its consideration of comprehensive bankruptcy reform.

As my colleagues may recall, last March the House overwhelmingly

passed H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003, which is now awaiting consideration in the other body. H.R. 965 contains many farmer-friendly provisions that would make chapter 12 a permanent fixture of the Bankruptcy Code for family farmers and generally make it easier for farmers in financial distress to be eligible for this form of bankruptcy relief. In addition, H.R. 975 would raise the debt limit and lower the income threshold so that many more family farmers could avail themselves of chapter 12. Also, this bill, for the first time, would extend the benefits of this specialized form of bankruptcy relief to family fishermen.

It is my sincere hope that in the very near future, we will see comprehensive bankruptcy reform legislation finally enacted, together with the permanent extension of chapter 12. Thus, I urge my colleagues to vote for H.R. 2465.

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

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

Mr. Speaker, chapter 12 bankruptcy protection expires in 7 days. Once again, we are forced to approve a temporary extension of this vital protection.

Since I was first elected to Congress just 4½ years ago, we have passed seven temporary extensions of this bill. It is high time that we make this very noncontroversial program permanent. That is the bill we should be debating and passing today.

Mr. Speaker, chapter 12 provides an important backstop for our Nation's struggling family farmers by allowing them to reorganize their debts and keep their farms. What we do here in Washington directly affects the lives of real people facing real financial challenges.

I want to try to put a human face on this issue. In Wisconsin recently, a Columbus, Wisconsin farmer filed for chapter 12 bankruptcy. He works night and day to make his farm a success. Unfortunately, like many farmers, the weather and the market conspired to disrupt his cash flow. Filing chapter 12 gave his family time to negotiate with his creditors, while he switched from corn and soybean production to vegetable production, with local market sales. He sells his produce at farmers' markets in the Cities of Madison and Princeton. He is paying his debts. Under chapter 12, it was not only the Columbus farmer that benefited. His creditors got their money, and the people in my district can purchase his bounty.

Chapter 12 does not just provide a direct benefit to those using its protections. Many farmers who face possible bankruptcy never get to a court filing. The very existence of the option of filing for chapter 12 bankruptcy promotes negotiations between farmers and their creditors.

There is a great consensus that chapter 12 bankruptcy protections work well. It is for that reason that we have included a permanent authorization in the comprehensive bankruptcy reform bill for the past three sessions of Congress. In fact, it is considered so popular that it has been held hostage to the larger bill. Every time we come to the floor to extend chapter 12, we are told that permanent extension cannot be passed separately from the big bill because taking out a popular item might slow that bill's momentum. We were told we had to strip the permanent extension of chapter 12 from last year's farm bill because it would slow down the bankruptcy bill. Well, here we are again, passing yet another temporary extension, and still the permanent extension languishes with about as much momentum as the continental drift.

Mr. Speaker, the House should pass this bill today, and I urge my colleagues to do just that. But we should also be voting on making chapter 12 permanent. Let us end these uncertainties that the extension causes. Let us end this chapter 12 extension dance.

Since the current authorization will expire within a few days, farmers do need the immediate relief provided by this extension. With the current year's crops in the ground, farmers need to know that they can reorganize and keep their farming operations. This bill would provide the security that family farmers in financial crisis need to decide whether to stay in business for one more year.

I urge my colleagues to support this legislation.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER).

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

Mr. BEREUTER. Mr. Speaker, I rise in support of H.R. 2465.

Mr. Speaker, this Member rises today to express his support for H.R. 2465, which extends Chapter 12 bankruptcy for family farms and ranches to January 1, 2004. Chapter 12 bankruptcy once again is set to expire on July 1, 2003. This legislation is very important to the nation's agriculture sector.

This Member would express his appreciation to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the House Judiciary Committee, for introducing H.R. 2465. In addition, this Member would like to express his appreciation to the distinguished gentleman from Michigan (Mr. SMITH) for his efforts in getting this measure to the House Floor for consideration.

This extension of Chapter 12 bankruptcy is supported by this Member as it allows family farmers to reorganize their debts as compared to liquidating their assets. The use of the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers throughout the nation. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not extended for family farmers, it will be another very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option other than to end their operations, but it will also cause land values to likely plunge. Such a decrease in value of farmland will negatively affect the ability of family farmers to earn a living. In addition, the resulting decrease in farmland value will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contacts from his constituents supporting the extension of Chapter 12 bankruptcy because of the situation now being faced by our nation's farm families—it is clear that the agricultural sector in hurting.

In closing, this Member urges his colleagues to support H.R. 2465.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, no one is as frustrated as I am at the lack of progress on the overall bankruptcy reform bill, which is comprehensive and which will make this economy work better and more efficiently, particularly for those people who pay their bills and obligations on time. Without the overall bankruptcy reform bill being enacted into law, there will be those that use bankruptcy reform as a financial planning tool. That is absolutely wrong. Bankruptcy should exist for people and organizations that are genuinely down and out and who need to go through bankruptcy in order to get a fresh start, and the bill that is in the other body which this House passed by an overwhelming margin does just that.

I can understand the desire of people who are opposed to an overall bankruptcy reform bill to try to cherry-pick the popular items out of it and pass them piecemeal so that their opposition will end up sinking the overall bankruptcy reform bill once and for all. I do not go along with that, and I do not think the majority of this House will either.

The reason we have a temporary extension of chapter 12 here is to make sure that these protections for family farmers are maintained. But if chapter 12 and other issues are cherry-picked out, then the $44 billion a year of debt that is written off in bankruptcy will be passed on to those who pay their bills, including farmers who pay their bills in the form of higher goods and services.

That is why the overall bankruptcy reform bill ought to be enacted into law. And while the gentlewoman from Wisconsin might be prepared to give up on that issue, I am not, and that is why this bill is a temporary extension. We are going to do the job that needs to be done for the farmers today, and then, hopefully, later on this year, when the other body passes the overall bankruptcy reform bill, we will be able to do the job that needs to be done for people who pay their bills on time and, as agreed, to prevent this huge shift of costs from those who do not pay their bills to those who do.

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

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. 2465.

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.

□ 1445

VETERANS ENTREPRENEURSHIP AND BENEFITS IMPROVEMENT ACT OF 2003

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1460) to amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Entrepreneurship and Benefits Improvement Act of 2003''.

SEC. 2. AUTHORIZATION FOR STATE APPROVING AGENCIES TO APPROVE CERTAIN ENTREPRENEURSHIP COURSES.

(a) APPROVAL OF ENTREPRENEURSHIP COURSES.—Section 3675 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

''(2) For purposes of this subsection, the term 'entrepreneurship course' means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business enterprise.

''(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) do not apply to—

''(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

''(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.''.

(b) BUSINESS OWNERS NOT TREATED AS ALREADY QUALIFIED.—Section 3471 of such title is amended by inserting before the last sentence the following: ''The Secretary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.''.

(c) INCLUSION OF ENTREPRENEURSHIP COURSES IN DEFINITION OF PROGRAM OF EDUCATION.—Subsection (b) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses.''

(d) INCLUSION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES IN DEFINITION OF EDUCATIONAL INSTITUTION.—Subsection (c) of section 3452 of such title is amended by adding at the end the following: ''Such term also includes any qualified provider of entrepreneurship courses.''.

(e) DEFINITION OF QUALIFIED PROVIDER OF ENTREPRENEURSHIP COURSES.—Section 3452 of such title is further amended by adding at the end the following new subsection:

''(h) The term 'qualified provider of entrepreneurship courses' means—

''(1) a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), and

''(2) the National Veterans Business Development Corporation (established under section 33 of such Act (15 U.S.C. 657c)) insofar as the Corporation offers or sponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to courses approved by State approving agencies after the date of the enactment of this Act.

SEC. 3. PROCUREMENT PROGRAM FOR CERTIFIED SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS, ETC.

(a) ESTABLISHMENT OF PROGRAM.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by redesignating section 36 as section 38 and by inserting after section 35 the following new sections:

''SEC. 36. PROCUREMENT PROGRAM FOR CERTIFIED SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.

''(a) SOLE SOURCE CONTRACTS.—In accordance with this section, a contracting officer may award a sole source contract to any certified small business concern owned and controlled by qualified service-disabled veterans if—

''(1) such concern is determined to be a responsible contractor with respect to performance of such contract opportunity and the contracting officer does not have a reasonable expectation that 2 or more certified small business concerns owned and controlled by qualified service-disabled veterans will submit offers for the contracting opportunity;

''(2) the anticipated award price of the contract (including options) will not exceed—

''(A) $5,000,000, in the case of a contract opportunity assigned a standard industrial classification code for manufacturing; or

''(B) $3,000,000, in the case of any other contract opportunity; and

''(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price.

''(b) RESTRICTED COMPETITION.—In accordance with this section, a contracting officer may award contracts on the basis of competition restricted to certified small business concerns owned and controlled by qualified service-disabled veterans if the contracting officer has a reasonable expectation that not less than 2 certified small business concerns owned and controlled by qualified service-disabled veterans will submit offers and that the award can be made at a fair market price.

''(c) ENFORCEMENT; PENALTIES.—Rules similar to the rules of section 31(c) shall apply for purposes of this section.

''(d) COLLECTION OF DATA REGARDING SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—

''(1) SURVEY.—Not later than 2 years after the date of the enactment of this section and each 3 years thereafter, the Administrator, in consultation with the Secretary of Veterans Affairs, shall complete a survey of service-disabled veterans receiving benefits under title 38, United States Code, to determine the number, identity, and primary industry classification of small business concerns owned and controlled by service-disabled veterans.

''(2) REPORT TO CONGRESS.—The Administrator, in consultation with the Secretary of Veterans Affairs, shall report to Congress on the results of each survey conducted under paragraph (1). Such report shall include the total number of small business concerns owned and controlled by service-disabled veterans.

''(e) CONTRACTING OFFICER.—For purposes of this section and section 37, the term 'contracting officer' has the meaning given such term in section 27(f)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)(5)).

''SEC. 37. PRIORITY OF SMALL BUSINESS PROCUREMENT PREFERENCES.

''(a) IN GENERAL.—A contracting officer may not make a procurement from a source on the basis of a preference provided under any provision of this Act referred to in subsection (b) unless the contracting officer has determined that such procurement cannot be made on the basis of a preference provided under another provision of this Act with a higher priority under such subsection.

''(b) ORDER OF PRIORITY.—For purposes of this section, the following provisions of this Act are listed in order of priority from highest to lowest:

''(1) Section 8(a).

''(2) Section 36(b).

''(3) Section 36(a).

''(4) Section 31(b)(2)(B).

''(5) Section 31(b)(2)(A).

''(6) Section 8(m).

''(c) PRIORITY OF CERTAIN OTHER PROCUREMENT PREFERENCES.—A procurement may not be made from a source on the basis of a preference provided under any provision of this Act referred to in subsection (b) if the procurement would otherwise by made from a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).''.

(b) CERTIFIED SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SERVICE-DISABLED VETERANS.—Subsection (q) of section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new paragraph:

''(5) CERTIFIED SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.—

''(A) QUALIFIED SERVICE-DISABLED VETERAN.—The term 'qualified service-disabled veteran' means any veteran who—

''(i) has one or more disabilities that are service-connected (as defined in section 101(16) of title 38, United States Code) and rated at 10 percent or more by the Secretary of Veterans Affairs; or

''(ii) is entitled to benefits under section 1151 of title 38, United States Code.

''(B) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.—The term 'small business concern owned and controlled by qualified service-disabled veterans' means a small business concern—

''(i) not less than 51 percent of which is owned by one or more qualified service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more qualified service-disabled veterans; and

''(ii) the management and daily business operations of which are controlled by one or more qualified service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

''(C) CERTIFIED SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY QUALIFIED SERVICE-DISABLED VETERANS.—The term 'certified small business concern owned and controlled by qualified service-disabled veterans' means any small business concern owned and controlled by qualified service-disabled veterans that is certified by the Administrator as being such a concern.''.

(c) CONFORMING AMENDMENTS.—Paragraph (2) of section 31(b) of the Small Business Act (15 U.S.C. 657a(b)) is amended—

(1) by striking ''Notwithstanding any other provision of law'' and inserting ''In accordance with this section'';

(2) in subparagraph (B)—

(A) by striking ''a contract opportunity shall be awarded pursuant to this section'' and inserting ''a contracting officer may award contracts''; and

(B) by striking ''; and'' at the end and inserting a period; and

(3) by striking subparagraph (C).

(d) DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM.—

(1) IN GENERAL.—In the case of a contracting officer of the Department of Veterans Affairs, the provisions of the Small Business Act referred to in paragraphs (1), (2), and (3) of section 37(b) of such Act shall be treated as being equal in priority for purposes of applying section 37 of such Act.

(2) TERMINATION.—Paragraph (1) shall not apply with respect to procurements made after September 30, 2007.

SEC. 4. AUTHORIZATION TO PROVIDE ADAPTED HOUSING ASSISTANCE TO CERTAIN DISABLED MEMBERS OF THE ARMED FORCES WHO REMAIN ON ACTIVE DUTY.

Section 2101 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) The Secretary may provide assistance under subsection (a) to a member of the Armed Forces serving on active duty who is suffering from a disability described in paragraph (1), (2), or (3) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under that subsection to veterans eligible for assistance under that subsection and subject to the requirements of the second sentence of that subsection.

''(2) The Secretary may provide assistance under subsection (b) to a member of the Armed Forces serving on active duty who is suffering from a disability described in subparagraph (A) or (B) of paragraph (1) of that subsection if such disability is the result of an injury incurred or disease contracted in or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under such subsection to veterans eligible for assistance under that subsection and subject to the requirements of paragraph (2) of that subsection.''.

SEC. 5. REINSTATEMENT OF MINIMUM REQUIREMENTS FOR SALE OF VENDEE LOANS.

(a) IN GENERAL.—Section 3733(a) of title 38, United States Code, is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively; and

(2) in subparagraph (B)(i) of paragraph (3), as so redesignated, by striking ''paragraph (5) of this subsection'' and inserting ''paragraph (4)''.

(b) INCREASE IN MAXIMUM PERCENTAGE.—Section 3733(a)(1) of such title is amended—

(1) by striking ''65 percent'' in the first sentence and inserting ''85 percent''; and

(2) by striking the second sentence.

(c) STYLISTIC AMENDMENT.—Section 3733 of such title is amended by striking ''paragraph (1) of this subsection'' each place it appears and inserting ''paragraph (1)''.

SEC. 6. PAYMENT OF ACCRUED BENEFITS.

(a) REPEAL OF LIMITATION ON PAYMENT.—Subsection (a) of section 5121 of title 38, United States Code, is amended by striking ''for a period not to exceed two years'' in the matter preceding paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to deaths occurring on or after the date of the enactment of this Act.

The SPEAKER pro tempore (Mr. ADERHOLT). Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I begin discussing our bill, Mr. Speaker, I would like to note with great sadness the passing of the former chairman of the Committee on Veterans Affairs, Bob Stump. Bob was a great friend to all of those who served in the Armed Forces since his own Naval experience as a Navy corpsman serving in the South Pacific during World War II. Although you did not see Bob making the rounds on the Sunday morning talk shows, his words, and especially his actions and deeds, spoke volumes about his dedication to all those who serve and have served our country in the United States military.

Bob served in Congress for 26 years. He was chairman of the House Committee on Veterans Affairs from 1995 to 2000, and then chaired the House Committee on Armed Services until his retirement in December of 2002. He has left a lasting legacy of service to our country, and he will be dearly missed.

On behalf of the Committee on Veterans Affairs, I want to express our condolences to his wife, Nancy, his children, Karen, Hoot, and Bruce, and to his grandchildren as well.

Mr. Speaker, I rise today in strong support of H.R. 1460, as amended, the Veterans Entrepreneurial and Benefits Improvement Act of 2003. The Committee on Veterans Affairs reported H.R. 1460 unanimously on May 15 as a result of the initiative of the gentleman from Arizona (Mr. RENZI), who introduced the bill. This bill was introduced following a hearing on the state of veterans employment on February 5 at which the gentleman from Arizona (Mr. RENZI) highlighted the seriously inadequate performance of Federal agencies in reaching out to disabled veteran-owned businesses. Since then, the ranking member, the gentleman from Illinois (Mr. EVANS), and I have worked closely with the chairman, the gentleman from Illinois (Mr. MANZULLO), and the ranking member, the gentlewoman from New York (Ms. VELÁZQUEZ), of the Committee on Small Business with respect to section 3 of the bill on which the Committee on Small Business had jurisdiction.

I am pleased that we have been able to formulate language agreeable to both committees, and I want to thank the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from New York (Ms. VELÁZQUEZ) for their cooperative efforts.

Mr. Speaker, disabled American veterans deserve a full opportunity to participate in the economic system that they fought so hard to defend. Section 2 of the bill would make improvements to the veteran and service-disabled veteran's small business opportunities by authorizing for the first time the use of VA education benefits to pay for non-degree/noncredit courses. These courses are offered by the Small Business Development Center and the National Veterans Business Development Corporation.

Section 3 of the bill has been, if you want to look at it one way, almost 23 years in the making. It contains a disabled veterans contracting preference provision derived from the 1980 White House Conference on Small Business convened by then-President Jimmy Carter.

The 1981 consultant report of the SBA Veterans Project and the 1999 report of the bipartisan Congressional Commission on Servicemembers and Veterans Transition Assistance made similar-type recommendations.

This provision for the first time would authorize Federal agencies to create sole-source contracts for disabled veteran-owned and -controlled small businesses. It would also furnish Federal agencies discretionary authority to restrict contracts to disabled veteran-owned and -controlled businesses if at least two such concerns were qualified to bid on the contract. This is the first time Federal contracting officers will have such authority.

Section 3 would also create a 4-year pilot in the Department of Veterans Affairs, service-disabled veterans-controlled businesses, and would have the same contracting priority as SBA's 8(a) program for socially and economically disadvantaged small business.

For all other Federal agencies, service-connected disabled-veteran-owned and -controlled businesses would be accorded priority to be awarded procurement contracts above the women-owned and HUBZone priorities, but just below 8(a) priorities.

In all cases, to be eligible for these procurement preferences, veterans who own and control small businesses would need to have at least a 10 percent service-connected disability.

The Federal Government, Mr. Speaker, contracts for about $235 billion in goods and services annually. America's sons and daughters who became disabled in their service to the Nation will

now have some of the same types of contracting preferences accorded to other deserving groups.

Section 4 of the bill, Mr. Speaker, would extend VA's specially adapted housing grant to severely disabled service members prior to separation from active duty service. Under current law, an otherwise eligible servicemember may not apply for home modification assistance until he or she is actually separated from the military or placed on the temporary-disabled retirement list.

I want to commend the gentleman from Illinois (Mr. EVANS) for his leadership in putting together this important provision.

Section 5 would reinstate the Department of Veterans Affairs' vendee loan programs, which the VA administratively terminated last January. I want to thank the gentleman for joining me for authoring this provision.

When a purchaser agrees to buy a foreclosed VA home, VA often offers to finance the sale by establishing a vendee loan to encourage the prompt sale of a home. Vendee loans are made at market interest rates and often require a down payment. Borrowers are assessed a 2.25 percent funding fee that is paid in each case. The vendee loan program is based on sound business principles, and there is an ample body of empirical evidence to suggest that offering vendee financing is highly cost effective to the government. In March, for example, of 2002, a Booz, Allen, Hamilton study found that cost effectiveness of vendee loan financing, their report said that the government would save $16 million a year starting in 1999.

Finally, section 6 of the bill would repeal the existing 2-year limitation on accrued benefits so that a veteran survivor may receive the full amount of an award and of benefits and may not be penalized if VA does not process the claim in a timely manner. This section is derived from H.R. 241, legislation that I introduced earlier this year.

Finally, I want to thank especially the good leadership that the gentleman from Arizona (Mr. RENZI) has provided in shaping this legislation. As always, I wanted to thank my good friend and colleague, the gentleman from Illinois (Mr. EVANS), for his work on this, as well as the gentleman from Maine (Mr. MICHAUD) who is representing the minority in presenting this bill to the floor today and for his good work as ranking member of the subcommittee.

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

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

Mr. Speaker, I rise today to express my strong support for H.R. 1460, the Veterans Entrepreneurship and Benefits Improvement Act of 2003, which I am a proud co-sponsor of. I also would like to thank the chairman of the committee, the gentleman from New Jersey (Mr. SMITH); the ranking member, the gentleman from Illinois (Mr. EVANS); and the chairman of the Subcommittee on Benefits, the gentleman from South Carolina (Mr. BROWN), for their work in bringing this important legislation to the floor.

This bill includes several provisions related to veterans who are owners of small businesses or who aspire to be.

I appreciate the efforts of the chairman, the gentleman from Illinois (Mr. MANZULLO); and the ranking member, the gentlewoman from New York (Ms. VELÁZQUEZ); as well as the staff of the Committee on Small Business for their assistance with those provisions.

H.R. 1460 would authorize the use of VA education assistance to pay for nondegree and noncredit business courses at approved institutions. This will enable veterans to obtain educational opportunities that meet their small business goals. This legislation would also improve the ability of service-disabled veterans who own small businesses to do business with the Federal Government.

As a member of both the Committee on Small Business and the Committee on Veterans Affairs, I am pleased that we are considering this legislation to help service-disabled veterans to obtain government contracts. These men and women who have sacrificed so much for this country, they are disabled as a result of their service to our Nation. The least that we can do is to say if you own a small business, then you should have the opportunity to obtain contracts from the Federal Government.

I am particularly disappointed about the number of service-disabled veterans who are obtaining Federal contracts. The number is already unacceptably small, and it has actually decreased over the past year. As Angela Styles of the Office of Management and Budget testified earlier this year, the Federal Government's record for contracts to service-disabled veterans is abysmal.

This bill will help improve that record. Section 4 of the bill includes provisions from H.R. 761, introduced by the ranking member, the gentleman from Illinois (Mr. EVANS), and by the chairman, the gentleman from New Jersey (Mr. SMITH). These provisions would allow servicemembers such as those seriously disabled during the Iraq War to obtain special adapted housing grants before being discharged from military service. These grants are available only to the most severely disabled veterans.

Under current law, servicemembers with severe disabilities may have their hospital discharge delayed if, for example, they do not have a wheelchair-accessible home available. But we can speed up the process by giving them their assistance immediately. Since they will meet the requirements as soon as they are discharged, there is no reason to delay providing them with assistance while their discharge is pending. This is a sensible, cost-effective and humane provision.

Section 5 of the bill would reinstate a particularly effective VA vendee home loan program, and I am puzzled as to what the reasons were for terminating such an effective, cost-saving program; and I am pleased that Congress is taking action to reinstate it.

H.R. 1460 also includes a provision of H.R. 241, which removes the time limitation on accrued benefits paid to the families of veterans who died while a claim for veterans benefits is pending. I have veterans in my district in Maine with claims which have been pending for many years. I hope none of them passes away while waiting for a decision. Should they do so, I want their families to see the full retroactive benefit to which the veteran is entitled.

I urge all Members to support this bill.

Finally, Mr. Speaker, I note with sadness the passing of a long-time friend of this Nation's veterans and former chair of our committee, Bob Stump. Although I did not have the opportunity to work with Mr. Stump, I appreciate the legacy of bipartisan cooperation he has left with the Committee on Veterans Affairs, similar to the gentleman from New Jersey (Chairman SMITH).

I would like to extend my sympathy and that of all members of this body to his wife and his children.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona (Mr. RENZI), the author of the bill.

Mr. RENZI. Mr. Speaker, I too want to share the words and the memories of Congressman Bob Stump. I am privileged to serve a major portion of the district in Arizona that he served so greatly for many, many years and more so, to learn more about him through the experience of his staff members who now work for me here in Washington. In addition, what I have learned greatly with serving with the Committee on Veterans Affairs under his mentorship and leadership has been a great influence on me.

I thank the gentleman from New Jersey (Mr. SMITH) for those words, and to the gentleman from Maine (Mr. MICHAUD) I am also grateful. I will pass those on at the ceremony honoring Bob Stump this Wednesday in Arizona.

□ 1500

Mr. Speaker, I am pleased to stand here today in support of the thousands of service-disabled veteran small business owners across the Nation who want to do business with the Federal Government. The distinguished members of our community and the successful small businesses are an integral part of the backbone of our economy; the same economy they fought for so bravely; the same economy that they gave their personal sacrifice to preserve and protect.

I want to thank the gentleman from New Jersey (Mr. SMITH), the chairman, because it is he who saw this many years ago and helped pull together the various portions of this legislation to build a bill that the gentleman from Illinois (Mr. EVANS), the ranking member, has supported, the gentleman from Illinois (Mr. MANZULLO), the gentlewoman from New York (Ms. VELÁZQUEZ), and also our distinguished ranking member on the subcommittee, the gentleman from Maine (Mr. MICHAUD). I also want to thank the gentleman from South Carolina (Mr. BROWN) for allowing me to move forward this legislation, though it came under jurisdiction of his committee, and I especially want to thank the Committee on Veterans Affairs staff for their leadership and guidance in developing this legislation. They put a lot of hours into making this bill a reality.

This bill is a first step in improving our current practice of contracting opportunities, and I look forward to working with the Committee on Veterans Affairs in the future and with the Committee on Small Business to further extend these small business opportunities.

Our purpose in introducing this legislation was to give service-disabled business owners and Federal contractors the tools they need to meet the government-wide statutory goal of 3 percent established in Public Law 106–50. When the Committee on Veterans Affairs held an oversight hearing chaired by our committee chairman, the gentleman from New Jersey (Mr. SMITH), on February 5, the state of veterans entrepreneurship program was discouraging to hear. In many cases, there were only several agencies that had Federal contracts with any of our service-disabled veterans and many did not even reach 1 percent. This is unacceptable and our veterans deserve better.

This bill sets out to lift these barriers that have denied service-disabled veterans the opportunities to fully participate in Federal contracting, and we are morally bound to promote the successful employment of those who have borne the battle and bear the scars of freedom for all Americans.

For the first time, this legislation, H.R. 1460, will allow veterans to use the Montgomery GI bill to educate themselves and to take entrepreneurial courses from small business centers. The National Veterans Business Development Centers Corporation will also be included in their ability to teach many of our veterans. This gives veterans the business education and training they need to successfully operate small businesses, and it is a real investment towards improving our economy and our veterans' livelihood.

Secondly, we recognize certified small business owners as a source of Federal procurement programs. Service-disabled veterans have a tougher journey ahead of them when they return from duty with a disability, and these veterans are comprised of individuals of all races and both genders. Veterans have earned the right to compete for contracts on the same level as other classes of individuals.

We hope that in the future those who have served within the Department of Defense and have provided homeland security will also have a priority in contracting with DOD and the Department of Homeland Security.

Small business-contracting Federal officers will note that Public Law 106–50 directed the creation of a database of small businesses that have identified themselves as being owned by service-disabled American veterans. This has been a labor intensive task, and I commend the Department of Veterans Affairs for their progress in realizing this effort. It is critically important that our Federal contractors have access to this information and be able to identify veteran-owned businesses that qualify for prime and subcontractor awards.

This legislation is a beginning. This tool can be used by veteran contracting officers to find service-disabled veteran businesses and help them achieve the statutory goal of 3 percent.

I want to thank again the gentleman from New Jersey (Mr. SMITH) for his leadership and his kindness towards me and generosity. I thank everyone on the Committee on Veterans Affairs, and I hope disabled American veterans will find a way now to help grow their businesses and prosper.

Mr. MICHAUD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself an additional minute.

I again want to thank my friends on the other side of the aisle for their good hard work on this legislation, and I especially want to thank the extraordinary work by the author of it, the gentleman from Arizona (Mr. RENZI). This is a bill that will help so many of our veterans who are service-connected disabled who are in the business realm to get the kind of government contracts that they are deserving of and hopefully will lead to greater wealth and a capability on their part to provide for their families and for their loved ones.

This is a good bill. It is pro-business, it is pro-veteran, and it deserves the support of everybody in this Chamber.

Mr. Speaker, again, I want to thank our subcommittee chairman, the gentleman from South Carolina (Mr. BROWN), and again, the gentleman from Maine (Mr. MICHAUD), who is the ranking member, for their work on this bill, for marking it up and bringing it forward to the full committee where we marked it up and passed it unanimously.

Mr. EVANS. Mr. Speaker, I support H.R. 1460, the Veterans' Entrepreneurship and Benefits Improvement Act of 2003 and urge passage by this Chamber. I would like to thank CHRIS SMITH, chairman of the full committee, the Benefits Subcommittee chairman, HENRY BROWN and ranking member, MICHAEL MICHAUD, for their hard work in bringing this legislation to the floor. I also want to acknowledge the contributions of DON MANZULLO and NYDIA VELÁZQUEZ, chairman and ranking member of the House Small Business Committee, along with their respective staffs for assisting us in crafting this legislation.

I am proud to be an original cosponsor of this bill as it provides increased opportunities for veterans to develop their entrepreneurial skills and become successful small business owners. Mr. Speaker, H.R. 1460 is a good bill and a step in the right direction with respect to its small business contracting provisions. The Federal Government engages in procurement contracts of up to $235 billion a year. Surely, service-disabled veteran small business owners deserve an opportunity to participate in this system.

Section 2 authorizes the use of VA education assistance to pay for nondegree and noncredit business courses at approved institutions. This provision should expand the educational and training opportunities for service-disabled veterans.

Section 3 authorizes Federal agency contracting officers to create sole source and restricted competition contracts for ''certified'' service-disabled veteran small business owners; requires the collection of relevant data and a report to Congress on service-disabled small business owners; and establishes a 4-year pilot program at the Department of Veterans Affairs through which service-disabled veteran small business owners would receive equal priority among all small business programs.

Section 4 is derived from a bill, H.R. 761, which I introduced. It would allow servicemembers to apply for and receive a grant for specially adapted housing while still in military service. This legislation was prompted by reports of seriously disabled servicemembers having to remain hospitalized until they were discharged from military services because they could not obtain a grant for specially adapted housing until after leaving military service. Without such a grant they were unable to obtain accessible housing. There is no question that these servicemembers will be discharged from military service. In order to qualify for the specially adapted housing grant, severe disabilities incompatible with continued military service are required. I hope that the Senate will act quickly to pass this legislation. I do not want to see severely disabled servicemembers from the recent Iraq war unnecessarily hospitalized due to the lack of accessible housing.

Section 5 reinstates the VA's vendee loan program. The vendee loan program is a successful program that allows VA to finance loans to a new veteran or non-veteran purchaser when the prior loan has been foreclosed upon and VA has received the property. By allowing vendee loans, the VA is able to sell the property more quickly and at a higher cost than is possible with conventional financing. VA abruptly ended this program earlier this year. I strongly favor its reinstatement.

Finally, section 6 would allow a surviving spouse or dependent children to receive accrued benefits if the veteran dies while a claim for VA periodic monetary benefits is being processed. Currently there is a 2-year time

limit on the retroactive period. I have introduced legislation to allow family members to continue the claims of veterans who die while a claim is pending. This provision is a good first step. The government should not be allowed to deny retroactive payments when the government's inaction is responsible for delayed adjudication of a claim.

Again, I thank my colleagues on the Veterans' Affairs Committee for their hard work and I urge my colleagues to vote to pass this legislation.

Mr. BROWN of South Carolina. Mr. Speaker, as an original sponsor of H.R. 1460, as amended, the ''Veterans Entrepreneurship and Benefits Improvement Act of 2003. I encourage my colleagues to support this legislation. I commend representative RENZI, Chairman SMITH and Ranking Member EVANS of the Committee on Veterans Affairs, and Chairman MANZULLO and Ranking Member VELÁZQUEZ of the Small Business Committee for bringing this important legislation to the floor for consideration.

I especially want to comment on sections two and three of the bill.

Section two would allow veterans, disabled veterans, dependents of totally disabled or deceased veterans, and active-duty members of the Selected Reserve to use their VA benefits to pursue pre-entrepreneurship and entrepreneurship courses offered under the auspices of Small Business Development Centers and the National Veterans Business Development Corporation. Small businesses in the last decade accounted for about 70 percent of the new jobs created in our economy.

The men and women who have served in our military indeed are engaging and resourceful individuals. Indeed, the 1999 report of the bipartisan Congressional Commission on Servicemembers and Veterans Transition Assistance found the following: ''a 5-year profile survey of veteran-owned businesses in Massachusetts conducted in the late 1980's and early 1990's showed that a pool of approximately 2,000 veterans engaged in micro businesses generated $74 million in taxable income for the Commonwealth of Massachusetts.'' And that is just in one state. With the availability of training under this bill, more veterans will be able to obtain the skills they need to start and grow their own small businesses. As Deputy Secretary of Veterans Affairs, Dr. Leo S. Mackay, Jr. testified at our April 30th hearing, ''the potential for positive effects on the economy, with enhanced competition and creativity within the marketplace, is significant.''

Section three of the bill would place disabled veteran-owned and controlled small businesses on a par with socially and economically disadvantaged veterans in the 8(a) contracting program for procurement contracts offered by the Department of Veterans Affairs for the next four years. This authority would apply to ''setaside'' and restricted competition contracts to be applied by contracting officers on a discretionary basis. For all Federal agencies, disabled veteran-owned and controlled small businesses would rank ahead of HUBZone and women-owned businesses in procurement preferences, but behind the 8(a) program. I find these types of preference as a needed 'first step' because of two additional findings of the Transition Commission: first, ''Disabled-veteran entrepreneurs require additional assistance because these business owners encounter costs and impediments that are not factors for their non-disabled competitors. Second, as a matter of fundamental fairness, Congress should accord veterans a full opportunity to participate in the economic system that their service sustains.''

Lastly, Mr. Speaker, I would note for the RECORD that the current independent Task Force for Veterans Entrepreneurship, the aforementioned Transition Commission, the 1981 expert report of the SBA Veterans Project, and the 1980 White House Conference on Small Business all recommended some type of federal ''setaside'' authority for disabled-veteran owned and controlled small businesses in the purchase of goods and services.

I encourage my colleagues to support this legislation.

Mr. REYES. Mr. Speaker, I rise in support of H.R. 1460. The provisions of this legislation remove barriers to small business ownership for veterans. H.R. 1460 allows veterans to use their education benefits to pay for non-degree or non-credit courses of entrepreneurship, enabling them to learn the skills that they will need when starting and running their own businesses. The bill additionally amends the Small Business Act to give small businesses owned by service disabled veterans the opportunity to secure sole source contracts from the Federal Government. By giving those participating in a veteran's rehabilitation program the chance to name self-employment as their vocational goal, H.R. 1460 makes entrepreneurship a viable career option for many for whom it was not before.

The passage of this legislation would mean a lot for those veterans who, like so many other Americans, dream of working for themselves. The opportunities that H.R. 1460 provides for self-employment are especially meaningful when salaried jobs can be so difficult to find. Large numbers of veterans live in my home district of El Paso, Texas where we unfortunately also have a high unemployment rate. A community like mine is a prime example of why we must provide veterans with the tools they need to become successful entrepreneurs. I urge my colleagues to join me in supporting this bipartisan legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1460, 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. SMITH of New Jersey. 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.

GENERAL LEAVE

Mr. SMITH of New Jersey. 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. 1460, as amended.

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

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 6 minutes p.m.), the House stood in recess until approximately 6:30 p.m. today.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on four motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 264, by the yeas and nays;

H. Res. 177, by the yeas and nays;

H. Con. Res. 209, by the yeas and nays; and

H.R. 2465, by the yeas and nays.

Proceedings on H.R. 1460 will resume tomorrow.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

EXPRESSING SYMPATHY FOR VICTIMS OF ALGERIAN EARTHQUAKE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 264.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. GREEN) that the House suspend the rules and agree to the resolution, H. Res. 264, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 1, not voting 51, as follows:

[Roll No. 297]

YEAS—382

Abercrombie	Baca	Barrett (SC)
Ackerman	Bachus	Bartlett (MD)
Aderholt	Baird	Barton (TX)
Akin	Baker	Bass
Alexander	Baldwin	Beauprez
Allen	Ballance	Becerra
Andrews	Ballenger	Bell

Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Foley
Forbes
Ford
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
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
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)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—51

Berman
Brown, Corrine
Burton (IN)
Capuano
Conyers
Cramer
Crowley
Davis (AL)
Davis (CA)
Deal (GA)
DeMint
Feeney
Fletcher
Fossella
Gephardt
Houghton
Hulshof
Istook
Jefferson
Kilpatrick
Kirk
Kolbe
Langevin
Larson (CT)
Lipinski
Lofgren
Lowey
Lucas (OK)
Menendez
Mollohan
Nadler
Nethercutt
Northup
Pallone
Payne
Pomeroy
Pryce (OH)
Rogers (KY)
Ros-Lehtinen
Sanders
Shays
Shimkus
Simpson
Smith (WA)
Sullivan
Taylor (NC)
Tiahrt
Toomey
Velazquez
Weiner
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON) (during the vote). The Chair would advise Members they have 2 minutes in which to record their vote.

□ 1853

Mr. MCINNIS and Mr. MOORE changed their vote from ''nay'' to ''yea.''

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.

COMMENDING PEOPLE OF THE REPUBLIC OF KENYA FOR CONDUCTING FREE AND FAIR ELECTIONS AND PEACEFUL AND ORDERLY TRANSFER OF POWER

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 177, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. GREEN) that the House suspend the rules and agree to the resolution, H. Res. 177, 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 380, nays 0, not voting 54, as follows:

[Roll No. 298]

YEAS—380

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
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Foley
Forbes
Ford
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
Hooley (OR)
Hostettler
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
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)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall

Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—54

Berman
Brown, Corrine
Burton (IN)
Capuano
Conyers
Cramer
Crowley
Davis (AL)
Davis (CA)
Deal (GA)
DeMint
Doolittle
Feeney
Fletcher
Fossella
Frank (MA)
Gephardt
Honda
Houghton
Hulshof
Istook
Jefferson
Kilpatrick
Kirk
Kolbe
Langevin
Lipinski
Lofgren
Lowey
Lucas (OK)
Meeks (NY)
Menendez
Mollohan
Nadler
Nethercutt
Northup
Pallone
Payne
Pomeroy
Pryce (OH)
Rogers (KY)
Ros-Lehtinen
Sanders
Shays
Shimkus
Simpson
Smith (WA)
Sullivan
Taylor (NC)
Tiahrt
Toomey
Velazquez
Weiner
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have 2 minutes in which to record their votes.

□ 1900

So (two-thirds having voted in favor thereof) the rules were suspended and the 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:

Mr. HONDA. Mr. Speaker, on rollcall No. 298, had I been present, I would have voted "yea."

COMMENDING THE SIGNING OF THE UNITED STATES-ADRIATIC CHARTER

The SPEAKER pro tempore (Mr. CULBERSON). The pending business is the question of suspending the rules and agreeing to the resolution, H. Con. Res. 209, 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 Wisconsin (Mr. GREEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 209, 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 381, nays 1, not voting 52, as follows:

[Roll No. 299]

YEAS—381

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
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Foley
Forbes
Ford
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
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
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)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—52

Berman
Brown, Corrine
Burton (IN)
Capuano
Conyers
Cramer
Crowley
Davis (AL)
Davis (CA)
Deal (GA)
DeMint
Feeney
Fletcher
Fossella
Gephardt
Houghton
Hulshof
Istook
Jefferson
Kilpatrick
Kirk
Kolbe
Langevin
Lipinski
Lofgren
Lowey
Lucas (OK)
McDermott
Menendez
Mollohan
Nadler
Nethercutt
Northup
Pallone
Payne
Pomeroy
Pryce (OH)
Rogers (KY)
Ros-Lehtinen
Sanders
Shays
Shimkus
Simpson
Smith (WA)
Sullivan
Taylor (NC)
Tiahrt
Toomey
Velazquez
Weiner
Weldon (FL)
Weller

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have 2 minutes in which to record their votes.

□ 1908

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.

FAMILY FARMER BANKRUPTCY ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2465.

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. 2465, 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 379, nays 3, not voting 52, as follows:

[Roll No. 300]

YEAS—379

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
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
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
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kleczka
Kline
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
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)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Flake
Paul
Rohrabacher

NOT VOTING—52

Berman
Bradley (NH)
Brown, Corrine
Burton (IN)
Capuano
Conyers
Cramer
Crowley
Davis (AL)
Davis (CA)
Deal (GA)
DeMint
Feeney
Fletcher
Fossella
Gephardt
Houghton
Hulshof
Istook
Janklow
Jefferson
Kilpatrick
Kirk
Kolbe
Langevin
Lipinski
Lofgren
Lowey
Lucas (OK)
Menendez
Mollohan
Nadler
Nethercutt
Northup
Pallone
Payne
Pomeroy
Pryce (OH)
Rogers (KY)
Ros-Lehtinen
Sanders
Shays
Shimkus
Simpson
Smith (WA)
Sullivan
Taylor (NC)
Tiahrt
Toomey
Velazquez
Weiner
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have 2 minutes in which to cast their vote.

□ 1914

So (two-thirds having voted in favor thereof) the rules were suspended and 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

Ms. KILPATRICK. Mr. Speaker, I was unavoidably detained today. Had I been present for legislative business, I would have voted ''yea'' on the following measures under consideration of suspension of the rules, H. Res. 264, H. Res. 177, H. Con. Res. 209, and H.R. 2465.

PERSONAL EXPLANATION

Mr. DEMINT. Mr. Speaker, I was absent during rollcalls 297, 298, 299, and 300. Had I been present, I would have voted ''yea'' on each of those rollcalls.

PERSONAL EXPLANATION

Mr. FLETCHER. Mr. Speaker, on Monday, June 23, 2003, I was unavoidably detained due to commercial plane mechanical problems. Had I been present for rollcall vote Nos. 297, 298, 299, and 300 I would have voted the following way: Rollcall vote No. 297, H. Res. 264—''Yea''; rollcall vote No. 298, H. Res. 177—''yea''; rollcall vote No. 299, H. Con. Res. 209—''yea''; rollcall vote No. 300, H.R. 2465—''yea''.

PERSONAL EXPLANATION

Mr. LANGEVIN. Mr. Speaker, this evening, I was unavoidably detained and unable to vote on the following measures: H. Res. 264 (rollcall vote 297); H. Res. 177 (rollcall vote 298); H. Con. Res. 209 (rollcall vote 299), and H.R. 2465 (rollcall vote 300).

Had I been present, I would have voted ''yea'' on rollcall vote 297, ''yea'' on rollcall vote 298, ''yea'' on rollcall vote 299, and ''yea'' on rollcall vote 300.

□ 1915

REPORT ON H.R. 2559, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2004

Mr. KNOLLENBERG, from the Committee on Appropriations, submitted a privileged report (Rept. No. 108–173) on the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 1, rule XXI, all points of order are reserved on the bill.

MOURNING THE PASSING OF FORMER ATLANTA MAYOR MAYNARD H. JACKSON

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

Mr. BISHOP of Georgia. Mr. Speaker, it is with deep regret that I must announce that this morning Maynard Holbrook Jackson, former Mayor of the City of Atlanta, a very prominent American, passed away. He was a great Georgian, a great American, and we will mourn his loss. Shakespeare wrote, ''All the world's a stage and all the men and women many players. Each has its entrance and its exit. One man in his time may play many parts.''

So it is with Maynard Jackson. Born in Texas, spending most of his life in Georgia, a lawyer, a father, a mayor extraordinaire, founder of the Georgia Association of Black Elected Officials, a very, very important historic figure in political annals for African Americans and for Americans.

It is with deep regret that we mourn his passing. We will on tomorrow night

have a special order so that we can pay due homage to a great American whom we loved so very much.

MOURNING THE PASSING OF HON. MAYNARD H. JACKSON

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

Mr. SCOTT of Georgia. Ladies and gentlemen of the House, this is indeed a sad day. Maynard Holbrook Jackson passed away with a severe heart attack that happened at Washington, D.C.'s Reagan National Airport this morning.

Maynard Jackson was a pioneer of soaring magnitude, not only in just the world of politics but in the world of business as well. It was his guiding influence that made the City of Atlanta a world class city. It was through his guidance that the Atlanta International Airport, which is now the world's busiest airport, was built. It was through his guidance and leadership that Atlanta became host to the 1996 Olympics, making it indeed a world class city.

We mourn his loss but indeed we celebrate an extraordinary life of significant and historic and legendary achievement. Not only was his mark on life for African Americans, for he was indeed a bridge-builder across racial lines at a time in Atlanta and in the South where we so desperately needed it.

Truly a giant in the forest has fallen this day. I know everybody in this House of Representatives, the Congress of the United States, joins with me in saying we thank God that he sent Maynard Holbrook Jackson our way. Truly a child of God and a sojourner of truth and righteousness and an extraordinarily great American, Maynard Holbrook Jackson.

MOURNING THE PASSING OF HON. MAYNARD H. JACKSON

(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. What a world of ironies. The day that the United States Supreme Court affirms the idea of race as a factor in equalizing opportunities for Americans and a warrior, a man of justice and equality, who stood fast in years before these contested issues came to the forefront, Maynard Holbrook Jackson, the former Mayor and Vice Mayor of the City of Atlanta, has lost his life.

Maynard Jackson was generous with his time. As a Representative from the State of Texas, might I acknowledge to my colleagues he was born in the great State of Texas. We sent him off to Atlanta, we bid him farewell, but he always remembered his roots and he never forgot his values, that of opportunity, that of fairness, that of the recognizing that business should be spread amongst those coming from all walks of life.

We lost him today but his legacy and enthusiasm that he shared with America, that yes, those individuals who come with a different background can engage in business, too. He created equal opportunity in Atlanta that was not offensive. He gathered the corporate community together and they joined him enthusiastically in promoting opportunities for women and minorities. And yes, as a young college student, I was privileged to visit with Vice Mayor Maynard Jackson when I was doing my thesis about coalition politics in the Deep South. He did not hesitate to sit down with me and give me a history not only of his life but the great heroes that inspired him.

He is a great soldier, a great warrior, and now I would say, lay your head down, my gentle warrior, lay down and rest that you will never be forgotten. Your words, your deeds will always be remembered that you are a great American hero. God bless you and God bless your family.

ON THE DEATH OF FORMER ATLANTA MAYOR MAYNARD JACKSON AND AFFIRMATIVE ACTION

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

Ms. WATSON. Mr. Speaker, I rise today to express my shock and sadness at the untimely passing of our dear friend, Maynard Jackson, former Mayor of Atlanta and one of our country's most charismatic political leaders. I also want to take this opportunity to remember Maynard's contribution to affirmative action on the day when the Supreme Court declared its support for the program.

Maynard was a giant of his time, a trailblazer and a dedicated public servant who became the inspiration for generations of African American politicians. His election in 1974 as the Mayor of Atlanta helped usher in a new movement of racial equality and a new process of interracial understanding and coexistence where the spirit of the civil rights movement was carried forward by victories at the ballot box.

Maynard will be remembered as the South's first big city African American mayor, but his legacy was much more than that. During his three terms as mayor, Maynard oversaw construction of the midfield terminal at Hartsfield Atlanta International Airport, established a cultural affairs department, brought the Olympics to Atlanta, and all the while gave voice to the city's in-town neighborhoods. Perhaps one of the most significant accomplishments of Maynard Jackson's tenure was his early support and leadership on affirmative action.

During his first term, Maynard instituted a groundbreaking affirmative action program that elevated the percentage of city contracts awarded to minorities in Atlanta from less than 1 percent in 1973 to 38.6 percent 5 years later.

One of the great success stories of Maynard's affirmative action program was the creation of a joint venture between white and minority-owned businesses during the construction of the Atlanta airport. Working from a vision of inclusion, Maynard was able to unite various groups and interests in building one of the most complex airport terminals in the world ahead of schedule and within the budget.

It is particularly ironic, then, that Maynard passed away on the day that the Supreme Court issued its landmark ruling. In two successive votes, the Justices recognized that the most effective way to cure society of its exclusionary practices is to make special efforts at inclusion, which is exactly what affirmative action does.

We will never forget him. He will have a legacy that will live on forever in the United States of America.

There has always been affirmative action in public policy—but for many years it operated to exclude, rather than include, people of color. Affirmative action was put in place to not only encourage diversity, but to be a minor step in the direction of justice after hundreds of years of institutional and social discrimination against women and people of color in the United States.

Much of the opposition to affirmative action is framed on the grounds of so-called ''reverse discrimination and unwarranted preferences.'' In fact, less than 2 percent of the 91,000 employment discrimination cases pending before the Equal Employment Opportunities Commission are reverse discrimination cases. Under the law as written in Executive Orders and interpreted by the courts, anyone benefitting from affirmative action must have relevant and valid job or educational qualifications.

Opponents of affirmative action also claim it is discriminatory. The problem with this myth is that it uses the same word—discrimination—to describe two very different things. Job discrimination is grounded in prejudice and exclusion, whereas affirmative action is an effort to overcome prejudicial treatment through inclusion. The most effective way to cure society of exclusionary practices is to make special efforts at inclusion, which is exactly what affirmative action does. When thinking about affirmative action policy, it is important to keep this principle in mind.

In fact, despite the progress that has been made, the playing field today is still far from level. Women continue to earn 76 cents for every dollar earned by a male. Black people continue to have twice the unemployment rate of white people, and graduate from college at half the rate of white people. In fact, without affirmative action the percentage of Black students at many selective schools would drop to only 2% of the total student body.

While I applaud the Court's decision today, our society still suffers from racial discrimination. It is unfortunate that after all these years we are still fighting an uphill battle for full inclusion into our nation's society.

However, we are fortunate to have had the civil rights movement and leaders like Maynard Jackson. In remembering Maynard, we must carry on his legacy and his commitment to never waver from equality for all.

MOURNING THE PASSING OF HON. MAYNARD H. JACKSON

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

Ms. CARSON of Indiana. Mr. Speaker, I would like first to affirm what was said by the gentlewoman from California (Ms. WATSON), who so eloquently gave a very brief overview of the life and work of the Honorable Maynard Jackson. Maynard Jackson was perhaps one of the most profound individuals that I have met in a lifetime. He was very dedicated. He had a lot of energy. He had a lot of perseverance. He had a lot of vision. And indeed he was very spiritual.

As I sat there and heard the gentlewoman from California talk about him, I could not help but think about John the Revelator that sat on the lonely island of Patmos, looked at an old city but envisioned what was great for a new city, and then Maynard Jackson began to build a new city, Atlanta, Georgia, created millions of millionaires, did much to bring the city to the forefront. Maynard Jackson was a very unassuming individual, too. He followed scripture in terms of not boasting about himself but letting his light so shine by his good works.

He is an individual that I will never forget. He is a person that I know his family is in very great sorrow for. He was the son of a Baptist preacher, and so perhaps that explains some of the eloquence that Maynard Jackson had. But this country, not just Atlanta, not just his family but the whole country has indeed lost an incredible, a remarkable individual in that of the Honorable Maynard Jackson.

MOURNING THE PASSING OF HON. MAYNARD H. JACKSON

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

Mr. KUCINICH. Mr. Speaker, I rise to mourn the passing of Maynard Jackson. When I had the great privilege of serving as Mayor of the City of Cleveland, Maynard Jackson and I were contemporaries in his service as Mayor of the City of Atlanta. In working with him through the years and learning his dedication, not only to the people of Atlanta but urban America, I was able to see that there was a real opportunity for people of good will to achieve a synthesis of that good will, of urban policy, because Maynard Jackson made the cause of cities his cause and he spoke to the needs of the people of urban America eloquently, with deep passion and with a concern about the potential of urban America that was being ignored. But he infused the City of Atlanta with his own potential, and with his passion and with his heart he helped raise Atlanta to greater and greater heights.

Maynard Jackson was not only a servant of Atlanta and the State of Georgia, but of America and the world because his life was about bringing people together and his life was about the potential of not only minorities but of every individual to make a dedication to community. So today, as Maynard Jackson passes, we can reflect on that wise Latin saying translated into English that says, ''If you seek his monument, look around.'' And wherever you look, in urban America, where men and women are dedicated to building up cities, you are always going to remember and be reminded of Maynard Jackson.

□ 1930

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CULBERSON). 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.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. KELLER. Mr. Speaker, I ask unanimous consent to take the Special Order time of the gentleman from Indiana (Mr. BURTON).

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

There was no objection.

SALUTING SHERIFF KEVIN BEARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. KELLER) is recognized for 5 minutes.

Mr. KELLER. Mr. Speaker, I rise this afternoon to salute one of the leaders in my hometown of Orlando, Florida, who has just been recognized as America's top cop. It is my happy privilege to announce to this Chamber that Orange County, Florida, Sheriff Kevin Beary is the winner of the 2003 National Sheriff of the Year award. I was pleased to personally recommend my friend Sheriff Beary for this award, and I did not say nice things about him just because every time I see him he is packing heat.

Kevin is the fourth generation of the Beary family who have selflessly devoted themselves to protecting others. He commands one of the largest law enforcement agencies in the southeastern United States. He is not only responsible for the safety of 1 million people who live in the central Florida area but for the millions of tourists who visit places like Walt Disney World and Universal Studios in my district every year.

As a member of the House Crime, Terrorism and Homeland Security Subcommittee, I have relied heavily on his expert advice to help drive my law enforcement agenda. Sheriff Beary and I teamed up to protect the COPS program and put more police officers on the street. We have worked together to build a new Federal courthouse in downtown Orlando designed to embassy safety standards, and we have stood together shoulder to shoulder against casino gambling and the drug legalization movement in Florida. But I think most importantly we have worked together since the events of 9–11 to make sure that our first responders have the tools they need to protect the people of central Florida and the tourists who play in our backyard from those who would plot against our Nation.

Kevin Beary is everything a sheriff should be. He is a friend to our most vulnerable citizens. He is a tireless volunteer in our community, and frankly he scares the hell out of the bad guys who would prey on our neighborhoods. Love him or fear him, everyone in central Florida knows Kevin Beary means business; and in light of this prestigious award he has now received, everyone in America knows too.

When I have a question on an issue facing law enforcement before this Congress, the first thing I do is call my sheriff. I am pleased to have the 2003 National Sheriff of the Year Kevin Beary on my speed dial. I say to my colleagues they should all be so lucky.

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under a previous order of the House, the gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

(Mr. GUTKNECHT addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

IN MEMORY OF MAYNARD JACKSON

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, I rise today with a heavy heart to speak on the untimely passing of Maynard Hollbrook Jackson. I was blessed to know Maynard Jackson for almost 40 years. Maynard Jackson was a wonderful human being, a gifted, brilliant politician. He was the kind of individual who was not afraid to take risks. Maynard Jackson was always

getting in the way for the common good.

In 1968, moved by the assassination of Dr. Martin Luther King, Jr., and Robert Kennedy, he ran for the United States Senate in the Democratic primary against incumbent Senator Herman Talmadge. He later made history by becoming the first African American mayor of a major southern city. His leadership as vice mayor of Atlanta and later as mayor of Atlanta for three terms transformed our city into the gateway to the New South. As mayor, Maynard Jackson emerged as a role model for other big-city mayors and younger elected officials. We often heard, if Maynard Jackson can do it, so can we. His accomplishments created a greater sense of possibility, a greater sense of hope, a greater sense of optimism.

Mr. Speaker, it is so ironic and almost eerie, really strange that Maynard Jackson's passing would happen at almost the same time as the Supreme Court's decision in support of affirmative action. He was one of the great champions for diversity, inclusion, and fairness, not just in government and business but in all areas of American life.

Perhaps Maynard Jackson's greatest accomplishment as mayor was the building of the Atlanta Hartsfield International Airport. Under Maynard Jackson's leadership, Atlanta Hartsfield became one of the largest and busiest airports in the world. At one time, Atlanta Hartsfield included more minority contractors than any other airport in the country. Maynard Jackson insisted that if majority contractors were to participate in construction of the airport, so would minority contractors.

Maynard Jackson must be remembered as one of the founding fathers, not just of the new Atlanta, not just of the New South, but of the new America. He will be missed by all of the good people of Atlanta, all of the good people of Georgia, and the Nation and around the world. As mayor, he established in a profound way the sister city program. Many of our cities around the world became sister cities of the city of Atlanta. He traveled far and broad to carry the message of hope.

Mr. Speaker, my prayers are with his wife, Valerie, his children, and all members of the Jackson family. We all mourn for the family. We mourn for the citizens of Atlanta, for the citizens of Georgia, and for all of his friends.

CONGRESSIONAL REDISTRICTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. CULBERSON) is recognized for 5 minutes.

Mr. CULBERSON. Mr. Speaker, I have joined the Congress after serving 14 years in the Texas House of Representatives, and in every one of those years the State of Texas operated under a Federal court order controlling our prison system. We have operated under Federal court orders controlling our mental health hospitals. We have operated under State court orders controlling our school finance system; and as a committed Jeffersonian, I fought strenuously to be sure that the people of Texas through their elected representatives would control our prisons, our mental health hospitals, and, above all, our school finance system which our legislature will deal with in a special session later this area.

One week from today, the Texas legislature will meet again in a special session to exercise the will of the people of Texas to control the way our congressional districts are drawn. That special session that will begin in 1 week has been the subject of much attention nationally in the preceding weeks; and of all the different analyses that I have seen done, the most eloquent, the most insightful analysis of what is taking place in the State of Texas in congressional redistricting was written by a young woman, Laura Childers, who expressed her opinion on the pages of the Houston Chronicle on May 15 of 2003. I would like to share her words with the Nation and with the Congress.

Laura Childers wrote: ''I am not a Republican, and I am not a Democrat. I am a naive 17-year-old girl who has yet to cast her first vote. Maybe looking to the actions of my elders shall help to coach me in the manner that a ballot should be cast. This should be particularly useful in the presidential elections in November, upon which I, along with millions of my fellow young comrades, will have reached the powerful age of 18. So far I've learned a lot.

''It appears that the distinction of party and not of morality is what is supposed to define a politician in American legislatures today; am I correct? Take the recent Democrat walkout from the Texas House of Representatives. What I gather from this incident is that it does not necessarily matter to the defending exiles that Texas citizens voted the Republican majority into office for the explicit reason of passing Republican legislation. In fact, I've heard statements from Democrats and their supporters that going against the American public's will is a very patriotic thing to do. This leads me to believe that the old, apparently outdated, reasons for government institutions no longer stand. The hopes and dreams of Presidents George Washington and Abraham Lincoln for a voice in the government for every American, regardless of position or belief, have been shattered.

''The creation of the democratic experiment of the United States of America was designed to see if it was possible for men to rule themselves. For the first time in modern history, there existed a haven where there were no dictators, no kaisers, no kings and no queens. There were the people, the voters, the common man. The people were to rule themselves by imposing a type of controlled majority rule in the place of a tiny group of monarchial individuals. Representatives were to be elected by popular vote with the mission to represent and act upon the beliefs and wishes of their electors. Political parties naturally formed between groups of representatives who symbolized common wishes of their voters. In order to further promote these wishes, political parties unified with one another. The legislation proposed by the parties was made in the interest of the voter and was overturned or affirmed depending on the will of the majority. Thus bills were passed by population representatives in an effort to advocate for the bulk of all those represented.

''When people impede this delicate process, they encumber the right of every American voter to fair representation. By not allowing a majority rule but forcing a type of minority monarchy, the great voice of the American public has been silenced to a sickly whisper. In the place of a free democracy with freedom for all and dishonesty toward none, a type of legal party regime has been set up, and the rights of American individuals have vanished. If one party is allowed to manipulate government institutions on any level, State or national, as the group of Democrat representatives in leisure at an Oklahoma resort have, our rights as Americans have been breached. We have been denied the Government power granted to us upon the signing of our Constitution.

''If this is the way that the tumultuous ship of today's Government, the institutions of 2003, is intended to be steered, then this is not the America that I had thought it was, been taught it was and hoped it was.

''If the America I'd dreamed of and prayed for does not, in fact, exist and Thomas Jefferson's 'boisterous sea of liberty' has long since dried to a shadowy pit of political regimes and power-hungry abusers of our Mother Freedom, then I will fight for the hopes of Washington and I will battle for the lessons of Lincoln. If America is to be true to herself, if man still be just, then let our Lady Liberty's voice be heard to mend this crack entrenching on our precious, sacred, irreplaceable bell of liberty, our vote.''

I am proud to say that Laura Childers is a constituent. She is a junior at Memorial High School in congressional district seven that I am so proud to represent, and I believe Laura Childers understands precisely what the American Constitution is about, what majority rule means, and what it means that the people of Texas have for the first time since 1876 voted in a new Republican majority in the Texas legislature, and Laura understands that it is the people of Texas and not the courts who should draw congressional districts.

□ 1945

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extension of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

THE CHILD TAX CREDIT

The SPEAKER pro tempore (Mr. GARRETT). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, nearly a month ago, this body passed a $350 billion tax cut that benefited primarily the top 1 percent in the country. Warren Buffett and others, who although would benefit from it, spoke against that tax cut. Prior to that evening, the day before, Republicans out of the House and the Senate, with the Vice President, got together to work out an agreement. And we later found out, 2 days afterwards, nobody had known that 12 million children, 6.5 million working families, had been left out of that tax cut. It actually was in the Senate bill. Somehow, when the Vice President got in the room with the Republican House leadership here, the 12 million children of working families were left on the editing floor, because there was nobody outside of that conference room where the leadership met to represent the voice of 12 million children of working families.

Now, in about a week from now a good portion of the wealthiest 1 percent will begin to receive what people on average think is close to $100,000 worth of tax cuts. Now, we have passed in the other body and in the House a tax cut to ameliorate and address this shortcoming that both the President says he wants done, the other body leadership say they want done and leadership in this Chamber say they want done.

Now, we need to address this problem, because in one week we have a tax cut that is going into place that has left out 12 million children of working parents, 6.5 million families. These are the families that are rookie cops, first-year firefighters, first-year teachers, nurses, single mothers. We can provide a tax cut for these children.

Now, this is in contrast to in May, this body provided a $25 billion tax credit to the energy companies to do what? To drill for oil. Now, the last time I checked that is supposed to be in their business plan. They are supposed to be doing that as a purpose of their business. That is what they exist for. In the very week that we passed a $25 billion tax credit for the energy industry to do what, to drill, Exxon Mobil reported, and I want to read this absolutely correctly so nobody can get this wrong; Exxon reported that their net quarterly income had tripled and that it had $12.3 billion in cash on hand. Mr. Speaker, $12.3 billion cash on hand. Their net quarterly profits had tripled. We had passed them a $25 billion tax cut, so they could do what? Drill for oil. That is the main mission of what that energy company does.

Enron, in the 4 out of the last 5 years, had never paid any corporate income taxes, yet received subsidies to the tune of $200 million in tax subsidies, in grants through the Export-Import Bank, to do what? Provide an energy project in India. WorldCom, in 2 out of 3 years, paid no corporate income taxes and yet they reported $12.5 billion in corporate profits. In fact, last week in our Committee on Budget in a hearing on waste, fraud, and abuse, Robert McIntyre, as well as the comptroller of the country, spoke about many tax credits and tax incentives that are used for corporations to do what they are supposed to do, and a great deal of mismanagement of our dollars are spent for these corporate welfare programs. Yet 12 million children could be provided a tax cut as they go into summer camp, as their parents start planning for the next year to buy shoes and new clothes for the school year.

So myself and other Members are going to start marking off the day as we get closer and closer, as the wealthy in this country start to get their tax cut, we are going to mark off the days as we begin to forget our children. Today is June 23, and now we count down to the day in which the checks start to go out. Yet the conference has not met, there has been no leadership out of the White House; no leadership shown to bring together both parties around a common set of values.

Now, we can disagree about whether the first $350 billion tax cut should have been paid; we can disagree about whether corporate welfare should exist in the form of Enron not paying any corporate taxes; whether Exxon Mobil having $12.5 billion cash on hand deserved another $25 billion in tax credits to drill for oil. We can disagree on all of that, but surely we can come together around a common set of values, that if you work hard, if you are trying to do right by your children, raise them with the right set of values, that these families who make $12,000, $13,000, $14,000 a year, what a Congressman makes in a month, that they deserve a full $1,000 child tax credit.

We are going to count down the days every day to remind this body that until that day comes, that these families deserve a tax cut. They deserve to be rewarded for making the right choice of work over welfare. They deserve to get a tax cut like the wealthiest 1 percent in this country. Everybody seems to agree, yet nobody can come together into the same room to work out not only our economic interests, but our values and commonality.

So I would hope that as we mark this day that we would find the same interests that drove us so fast to give Exxon a tax credit to drill for oil, that we worked so fast and furious to give the wealthiest 1 percent in this country $100,000 in tax cuts, that we find the same moral courage, the same discipline, the same foresight to give the 12 million children, 6.5 million families who work every day, get up in the morning, do not come home until late at night, try to do right by their children, have chosen the voyage of work and raised their children with a common set of values that we all espouse to represent and to want to reward; that we should not put another speed bump in their way as they try to raise their family. We should give them the tax cut that says you have done right, your children deserve it, you deserve it, because this is their money, too.

So today we mark off that day as we count down to July 1, when the first set of checks go out to the wealthiest 1 percent, and yet we here in Washington representing these people have not found the time to come together to come to an agreement to give a voice to their values, to give a choice to our common sense of purpose here.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

(Mr. ROHRABACHER addressed the House. His remarks will appear hereafter in the Extension of Remarks.)

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 addressed the House. Her remarks will appear hereafter in the Extension of Remarks.)

TRIBUTE TO A DEAR FRIEND, MAYNARD JACKSON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, I rise today to speak on behalf of my dear friend who passed this morning, Maynard Jackson. Maynard Jackson was a dear and treasured friend. He was a man that I worked very closely with. He was a man that I had the greatest respect for. I held him in high esteem because he was a learned individual who loved politics and who loved public policy, and demonstrated his ability to lead.

As my colleagues know, Maynard Jackson was a young man that graduated from Morehouse College when he

was but 18 years old. He went on to get his law degree, and he was inspired by the death of Martin Luther King to enter politics, and enter politics he did.

He first ran against Mr. Talmadge, Herman Talmadge, and he lost that race. But he proved that there was a need for a new direction. He won the votes in Atlanta. He did that when outside of Atlanta, as a matter of fact, he lost by 3 to 1. But that really did launch his political career. Maynard Jackson went on to serve as Mayor for 3 terms in Atlanta.

I loved Maynard Jackson because he was a man of impeccable integrity. Not only did he provide a new kind of leadership for Atlanta, he opened up opportunities for African Americans and people of color. When Maynard Jackson, the first African American mayor to be elected in Atlanta, took office, African Americans were not really a part of the business community, and he actually alienated some of the white business community, because he insisted on opening up these opportunities. When I look at the airport there, I know the stories about how Maynard Jackson helped to implement affirmative action, and when we see some of the concessions that are there, they are there because Maynard Jackson led the way for much of that to take place.

Maynard Jackson loved the Democratic Party, and he served on the Democratic National Committee for many years. And as many folks know and understand, I encouraged him to run at our last winter meeting to be head of the DNC. Even though he started late, we created a conversation and discussion about what kind of leadership we needed for the DNC. Maynard Jackson certainly did not win that election. As a matter of fact, he bowed out and he supported Terry McAullife.

The debate that we created had to do with the direction of the party. Where are we going? Where is this party going? Maynard had a plan: the southern strategy plan. Maynard knew and understood that unless we increased the turnout and understand the importance of the South to the Democratic Party, then we could not win, and we will not win.

When we were in our struggle for Maynard to lead the Democratic National Committee, we finally agreed that Maynard would take over a new position that we created in the Democratic Party called the National Development Commission, of which he would be chairman. Under that, he would have the Voting Rights Institute. And Maynard set about with that designation to increase the awareness about what was wrong with the voting systems in this country.

We had just come out of Florida where votes had been stolen, where people had been turned away from the polls, where folks were identified as felons and put on lists who had never been to jail, and Maynard was convinced that we had to clean that up. And he begged the DNC to take this as their number one issue and their number one priority. Maynard identified people who were to serve with him as he tried to carry out his vision of this Voting Rights Institute. But, for whatever reasons, it did not happen. Maynard called me and he said, I am going to resign the position. I do not think that it is going to happen in the way that we thought it would happen. And I consider that one of the greatest losses for the Democratic Party. Maynard went on back to Atlanta, to Jackson Securities, a company that he had founded where he did tremendously well.

He was a fine businessman, and he worked well with so many elected officials around this country in order to achieve the kind of success that he was able to achieve in the bond business.

I am going to miss Maynard. He was a dear and close friend, and the Democratic Party and all of us who wish to see this party go in a new direction, understanding the significance of the South, are going to miss him, and unless his thoughts and his ideas are accepted by this party we are going to continue to lose.

REMEMBERING MAYNARD JACKSON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, I want to add my voice again to those who are lamenting the life well-lived, and the life just going into transition. It was Maynard Jackson, as my colleagues just heard, who had a vision of inclusion.

□ 2000

Maynard was able to unite various groups and interests in building one of the most complex airport terminals in the world ahead of schedule and within budget. And as I said before, it is particularly amazing that today was the day that Maynard Jackson transitioned and also the day the Supreme Court issued its landmark ruling.

In two successive votes, the Justices recognize that the most effective way to cure society of its exclusionary practices is to make special efforts to see that Americans are included, which is exactly what Maynard Jackson stood for when he mentioned the phrase ''affirmative action.'' It was first used in President Lyndon Johnson's 1965 executive order. In 1967 Johnson expanded the executive order to include affirmative action requirements to benefit women. The policy was significantly expanded in 1969 by President Richard Nixon and then-Secretary of Labor George Schultz.

In 1973 Maynard Jackson began his leadership in implementing these policies, which enabled Atlanta to become a true world class city. There has always been affirmative action in public policy; but for many years it fought to exclude, rather than include, people of color. Affirmative action was put in place to not only encourage diversity but to be a minor step in the direction of justice after hundreds of years of institutional and social discrimination against women and people of color in the United States of America. Much of the opposition to affirmative action is framed on the grounds of so-called reverse discrimination and unwarranted preferences. In fact, less than 2 percent of the 91,000 employment discrimination cases pending before the Equal Opportunity Commission are reverse discrimination cases.

Under the law as written, in executive orders and interpreted by the courts, anyone benefiting from affirmative action must have relevant and valid job or educational qualifications. Opponents of affirmative action also claim it is discriminatory. The problem with this myth is that it uses the same word, discrimination, to describe two very different things. Job discrimination is grounded in prejudice and exclusion; whereas, affirmative action is an effort to overcome prejudicial treatment through exclusion and to provide inclusion. The most effective way to cure society of exclusionary practices is to make special efforts at inclusion, which is exactly what affirmative action does.

When thinking about affirmative action policy, it is important to keep this principle in mind. In fact, despite the progress that has been made, the playing field today is still far from level. Women continue to earn 76 cents for every dollar earned by a male. Black people continue to have twice the unemployment rate of white people and graduate from college at half the rate of white people. In fact, without affirmative action, the percentage of black students at many selective schools would drop to only 2 percent of the total student body.

While I applaud the Court's decision today, our society still suffers from racial discrimination. And in the name of Maynard Jackson, we must carry on his legacy and his commitment to never waiver from equality for all Americans.

Mr. Speaker, I rise today to express my shock and sadness at the untimely passing of my dear friend Maynard Jackson—former Mayor of Atlanta and one of our country's most charismatic political leaders. I also want to take this opportunity to remember Maynard's contribution to affirmative action on the day when the Supreme Court declared its support for the program.

Maynard was a giant of his time, a trailblazer and a dedicated public servant who became the inspiration for generations of African American politicians. His election in 1974 as the Mayor of Atlanta helped usher in a new movement of racial equality and a new process of interracial understanding and co-existence where the spirit of the civil rights movement was carried forward by victories at the ballot boxes.

Maynard will be remembered as the South's first big-city African-American mayor, but his

legacy was much more than that. During his three terms as Mayor, Maynard oversaw construction of the midfield terminal at Hartsfield Atlanta International Airport, established a cultural affairs department, brought the Olympics to Atlanta, and all the while gave a voice to the city's in town neighborhoods.

Perhaps one of the most significant accomplishments of Maynard Jackson's tenure was his early support and leadership on affirmative action. During his first term, Maynard instituted a groundbreaking affirmative action program that elevated the percentage of city contracts awarded to minorities in Atlanta from less than 1 percent in 1973 to 38.6 percent five years later.

One of the great success stories of Maynard's affirmative action program was the creation of a ''joint venture'' between white and minority-owned businesses during the construction of the Atlanta airport. Working from a vision of inclusion, Maynard was able to unite various groups and interests in building one of the most complex airport terminals in the world ahead of schedule and within budget.

It is particularly ironic then that Maynard passed away on the day before the Supreme Court issued its landmark ruling. In two successive votes, the Justices recognized that the most effective way to cure society of exclusionary practices is to make special efforts at inclusion, which is exactly what affirmative action does.

The actual phrase ''affirmative action'' was first used in President Lyndon Johnson's 1965 Executive Order. In 1967, Johnson expanded the Executive Order to include affirmative action requirements to benefit women. The policy was significantly expanded in 1969 by President Richard Nixon and then Secretary of Labor George Schultz. In 1973, Maynard Jackson began his leadership in implementing these policies, which enabled Atlanta to become a world-class city.

There has always been affirmative action in public policy—but for many years it operated to exclude, rather than include, people of color. Affirmative action was put in place to not only encourage diversity, but to be a minor step in the direction of justice after hundreds of years of institutional and social discrimination against women and people of color in the United States.

Much of the opposition to affirmative action is framed on the grounds of so-called ''reverse discrimination and unwarranted preferences.'' In fact, less than 2 percent of the 91,000 employment discrimination cases pending before the Equal Employment Opportunities Commission are reverse discrimination cases. Under the law as written in Executive Orders and interpreted by the courts, anyone benefitting from affirmative action must have relevant and valid job or educational qualifications.

Opponents of affirmative action also claim it is discriminatory. The problem with this myth is that it uses the same word—discrimination—to describe two very different things. Job discrimination is grounded in prejudice and exclusion, whereas affirmative action is an effort to overcome prejudicial treatment through inclusion. The most effective way to cure society of exclusionary practices is to make special efforts at inclusion, which is exactly what affirmative action does. When thinking about affirmative action policy, it is important to keep this principle in mind.

In fact, despite the progress that has been made, the playing field today is still far from level. Women continue to earn 76 cents for every dollar earned by a male. Black people continue to have twice the unemployment rate of white people, and graduate from college at half the rate of white people. In fact, without affirmative action the percentage of Black students at many selective schools would drop to only 2 percent of the total student body.

While I applaud the Court's decision today, our society stiff suffers from racial discrimination. It is unfortunate that after all these years we are still fighting an uphill battle for full inclusion into our Nation's society.

However, we are fortunate to have had the civil rights movement and leaders like Maynard Jackson. In remembering Maynard, we must carry on his legacy and his commitment to never waver from equality for all.

MAKING MEDICARE BETTER FOR ALL SENIORS

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, I am delighted to be here tonight to talk about a very important issue that is resonating across the country, and just recently on my return back from my district, more importantly, the issue of Medicare and prescription drug reform which is impacting largely low-income working families and especially many of the families that I represent in my district in California, Latino working families.

The facts are clear, 87 percent of uninsured Latinos come from working taxpaying families. However, nearly 60 percent of Latinos live in families with incomes below 200 percent of the poverty level. Many of these families, 37 percent, in fact, lack basic access to quality care. Low-income elderly Latinos face incomparable barriers to health care at just about every corner of their lives. Linguistic, cultural, financial burdens continually impede their health access that would otherwise be available to every American.

When President Johnson signed the Medicare bill back in 1965 he said, and I quote: ''No longer will older Americans be denied the healing miracle of modern medicine.''

Medicare was not created to exclude the elderly in exchange to enrich private insurance companies. The Republican proposal as I see it undermines the universal character of Medicare that ensures quality for all seniors. Instead, it provides different benefits to different seniors depending on your income. Figures estimate that the Medicare beneficiaries who spend $4,000 or more out of pocket on drugs are not individuals making less than 100 percent of poverty, not those between 100 and 200 percent of poverty, but those individuals who live with incomes greater than 200 percent of poverty. These are the people we are asking to pay the most for their prescription drugs.

The House Republican bill increases costs for seniors by $8 billion and does not offer meaningful benefits, nor does it make drugs affordable for our seniors. How can we even realistically say we are attempting to improve the lives of all Americans when the Latinos and low-income elderly population are the most susceptible for falling between the privatized cracks?

There are more than 214,000 Latino Medicare beneficiaries currently residing in the State where I come from, in California, and over 55 percent of those seniors report having little or no information. They do not even know about the bilingual toll-free Medicare phone number. Some do not even have telephones in their homes. Who will care for those beneficiaries when the Republicans impose unaffordable premiums, requiring spending up to $250 before they can receive any help at all? This even prohibits the HHS Secretary from negotiating better prices. I thought he was supposed to be working on our side on behalf of our consumers and our seniors.

With private and for-profit managed care plans competing to entice healthy seniors to enroll, traditional Medicare will be forced to raise out-of-pocket costs astronomically for the sickest and most disabled beneficiaries. The holes in the cracks are visible. We are just seeing what has occurred in the State of California where many beneficiaries were dumped and they were left without care.

I urge my colleagues on the other side of the aisle to think of the future of these populations, the low-income, taxpaying. Whether they are Latino or not, let us help all the elderly who deserve accessible and meaningful Medicare plans. Let us protect our Nation by caring for all American seniors, and let us begin by working with the program that we know works, that will make a difference for all of us.

HONORING MAYNARD JACKSON

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I am sad to join my colleagues, the gentleman from Georgia (Mr. BISHOP), and the gentleman from Georgia (Mr. SCOTT), as well as the gentleman from Georgia (Mr. LEWIS) who was on the floor earlier, and I know the gentlewoman from Georgia (Ms. MAJETTE), I do not know if she has been here yet, and many other Members, the gentlewoman from California (Ms. WATERS) who was a very close friend of Maynard Jackson. I am saddened to add my personal thoughts and prayers to their wonderful comments about Maynard Jackson.

America has lost a great statesman today, and our hearts are saddened for his family and thousands of his colleagues and friends who loved him and worked with him on so many issues.

For his many friends at the United States Conference of Mayors where he

served in key leadership roles, to those who worked with him in building the magnificent Atlanta airport in his tenure as mayor, to the many people that he touched as he worked tirelessly to bring the Olympics to Atlanta, the list goes on and on, Maynard Jackson, Jr., was larger than life, physically, politically and in every way.

Maynard Jackson was the essence of a public person. Being first elected the mayor of Atlanta and then reelected and term-limited for another term, Maynard found other venues in which to serve his beloved Atlanta. He was an entrepreneur, one who mentored many young people who had expressed an interest in starting their own businesses. Maynard Jackson can be best described as a facilitator of the people. A facilitator so much so that when he chose to return to elected office, Mr. Speaker, for a third term as mayor of Atlanta, he was elected overwhelmingly with 80 percent of the vote. People loved and trusted Maynard Jackson.

Maynard was a democrat with a small ''d'' and a capital D. He offered himself as the Chair of our party, as the gentlewoman from California (Ms. WATERS) said earlier. Even though he was not successful, Mayor Jackson continued to work on voter education and outreach within the party in a very significant way.

I was pleased to appoint Maynard Jackson to serve on the Election Assistance Commission Advisory Committee. I think it was an honor to all the Democratic members of the House that he accepted that position. This advisory committee would have had, and does have, the import of assisting 50 States to make sure that the American electoral system is accessible and fair. What greater American to oversee such a momentous task.

Mr. Speaker, this was a result of legislation passed by the House of Representatives, by the entire Congress, signed by the President to make sure that every vote in America counts, that the public knows that, that we do the outreach, that we have the education of the public, that we have the technical assistance and the financial assistance to States and to communities, to have a voting system that, again, is fair, understandable, accessible and in which every vote is counted.

Maynard Jackson devoted his life to the legitimacy of the process, to democracy in our country, to a commitment to enhance the voices of minorities in our country. We will miss him with his warm smile and his big heart. We all would say to Maynard, Well done. Well done.

I hope it is a comfort to his family that so many people mourn their loss and are praying for them at this sad time.

REMEMBERING MAYNARD JACKSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. SCOTT) is recognized for 5 minutes.

Mr. SCOTT of Georgia. Mr. Speaker, I rise with a heavy heart, indeed, for Maynard Jackson was a very dear and close and personal friend of mine.

I say this with all sincerity and truthfulness, that had it not been for Maynard Jackson, I would not be here serving in the Congress of the United States. Maynard Jackson ushered in a whole era of black political participation unprecedented. He was a pioneer of soaring magnitude that touched so many people's lives.

In 1973 he gave opportunities and hope for so many of us when he ran and was elected to mayor. And to show the kind of person he was, one year later he encouraged me to run for the Georgia House of Representatives to start my career. I was elected as one of the youngest members of the House of Representatives of Georgia.

Maynard Jackson, one year after he was elected mayor, was in the street of Atlanta, on the Southside of Atlanta walking day to day and knocking on doors to help get me elected to the Georgia House of Representatives. So I hope you understand me when I say that I stand here with a deep and heavy heart.

□ 2015

I have thought what could we say, what could we say in this hallowed Chamber of the Congress of the United States that would best epitomize Maynard Jackson?

To me, it is summed up in one word and that is great. Maynard Jackson was a great man. He was a great human being, not only great in size but great in his heart, great in his giving, extraordinarily great in his contributions, the guiding force to build the world's busiest airport Atlanta's International Airport, the guiding force to bring the 1996 Olympics to Atlanta Georgia, making us a world class city, opening door after door, not just in the world of politics, which has been mentioned, but in business, opening up doors of business opportunities for many of us who would not have those opportunities and those doors opened.

Greatness is his word. Greatness is its meaning, and maybe we ought to pause for a moment to ponder that word ''greatness.''

That question was put to the great Greek philosopher Aristotle, and Aristotle was asked, What does it take to make a great person? Aristotle replied, In order to be a great person, you must first of all know thyself. Maynard Jackson knew himself. He knew who he was and he knew whose he was, that he was foremost a child of God and he carried that with him.

His faith sustained him, gave him the courage to step out in 1969 as a young man and challenge the legendary Herman Talmadge for the United States Senate seat in Georgia in, 1969, one year after the assassination of Martin Luther King, Jr.

Later on, that word of greatness was asked of the great Roman general Marcus Aurelius. What does it take to be great, Marcus Aurelius was asked. Marcus Aurelius responded and said, In order to be great, you must first of all discipline yourself, and Maynard Jackson disciplined himself, carried himself.

Oh, he was a master politician. Nobody could work the room like Maynard Jackson, shaking hand after hand. I learned so much from him, how to shake somebody's hand and look them in the eye and make them feel like they are the most important person on Earth. That was Maynard Jackson.

The discipline of getting through Morehouse School at 18 years old, the discipline of becoming the first Vice Mayor of Atlanta, African American, and then becoming the first Mayor of Atlanta, African American; the discipline of Maynard Jackson.

Finally, that question was put to the great Messiah, Jesus Christ, and Jesus was asked, What does it take to make a great person? Jesus responded and said, In order to be great, you must first of all sacrifice yourself. Maynard Jackson sacrificed himself. He gave of his life. Indeed, he did.

We all knew he had some health problems, but he kept going, and I am sure as he was here in Washington, D.C., this morning, he was sacrificing himself to further expand opportunities.

When I last met with him, he said, It is a shame that we have 600,000 African Americans who are able to vote and are the age to vote in Georgia but are not registered to vote. David, we must do something about it. He was a man of action who knew himself, who disciplined himself, who sacrificed himself.

On this day, let it be known that a great oak fell in the forest of America and the world and we all need to thank God for sending Maynard Holbrook Jackson our way, not just the black folks' way, but not just the white folks' way, all of our way, for he was truly a bridge builder, and this Nation and this world is better because God sent Maynard Holbrook Jackson our way.

God bless Maynard Jackson.

HONORING MAYNARD HOLBROOK JACKSON

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under a previous order of the House, the gentleman from Georgia (Mr. BISHOP) is recognized for 5 minutes.

Mr. BISHOP of Georgia. Mr. Speaker, I stand again to address this House and to express my sorrow at the passing of my friend, a great man, Maynard Holbrook Jackson.

Longfellow wrote: ''Lives of great men all remind us, We can make our

lives sublime, And, departing, leave behind us, Footprints on the sands of time.'' Yes, Maynard has left great footprints. He left footprints as he left high school at 15 years of age to attend Morehouse College as an early admissions student, when he graduated from Morehouse College with a degree and went on to North Carolina Central University Law School, where he earned a law degree at a very early age. He had a deep baritone voice which he honed singing in the Morehouse College Glee Club. When he graduated from law school, he put that voice to work as a lawyer with the Emory Neighborhood Law Office practicing legal aid.

Maynard was a very, very astute and committed lawyer to the poor. He represented the poor in Atlanta when they were evicted, when they were hounded by debt collectors. He represented them when they had family problems, domestic problems. He handled divorce cases.

I followed him at the Emory Neighborhood Law Office, and I inherited a number of his cases as he moved on to leave even greater footprints.

When he went to the City of Atlanta and became Vice Mayor, inspiring all of us at what this young man could do in terms of leadership for his city, he left footprints there, and it was just a matter of time before he was drafted to make the run for Mayor, and Mayor he was, Mayor of the City of Atlanta where he transformed Atlanta into a world class, world renowned city.

He instituted affirmative action with city contracting. He proved that minorities and women could and would under his watch participate as partners in building Atlanta to greatness.

He developed a national demonstration project in his methods of implementing affirmative action in Atlanta which was followed across the country as other mayors and other cities began to follow the example and the road map that Maynard Jackson left, the footprints that he left there in the sands of time.

He was a leader in so many respects. He founded the Georgia Association of Black Elected Officials, which was an organization that helped to bring leadership and to strengthen all of the black elected officials in Georgia and, again, allowed Georgia to lead the Nation in growing a crop of African American elected officials so that he could put flesh and put life into the Voting Rights Act that was brought into being by the civil rights movements out of Atlanta and across the country.

He was one who could be said to have been born with a silver spoon in his mouth. He was from a well-to-do, upper middle class African American family. He was a son of a Baptist preacher, the grandson of one of the icons of Georgia history, John Wesley Dobbs, grand master of the Prince Hall Masons of Georgia, a leader in his own right in political undertakings throughout the State.

He was the nephew of Mattiwilda Dobbs, opera singer, one of the few African American opera singers in the 1950s.

He was a mentor, a bond attorney. He was a friend to so many, a helpful person. He helped young individuals who were interested in going into business or who were interested in running for office. He exemplified all that was good.

Yes, he was a great man, not because of the titles he carried, not because of the degrees that he had earned, the businesses that he started. He was great because he measured by the true standard of greatness set by Jesus, who said he who is great among you shall be your servant and who is the greatest shall be servant unto all.

Maynard Holbrook Johnson measured up. He was indeed greet. We mourn his loss. We thank God and we thank his family that he came this way, that he helped make this world a little more of hope, a little less of fear and certainly much, much better because he traveled here.

CHILD TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Ms. DELAURO) is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, it was exactly a month ago that the House passed a $350 billion tax cut, a tax cut that promised working families, those families who make between $10,500 and $26,600, it promised them a child tax credit, and these are our families who pay taxes, payroll taxes, sales taxes, property taxes, excise taxes.

Something happened on the way to the bill signing by the President of the United States. The Republican majority stole that child tax credit from 6.5 million families, 12 million children. Why? To make room for a $93,000 tax cut for millionaires; 183,000 millionaires will get that amount in a tax cut. So I say happy anniversary.

A week from today, 25 million families in this country will begin to receive their refunds in the mail, but not these six-and-a-half million families hardworking, tax paying families. These families are being held hostage, used as little more than a bargaining chip in the Republicans' never ending obsessive quest to cut taxes and cut them only for the wealthiest people.

Among these families who will not be receiving this tax credit are 200,000 military families, men and women who if we open the paper we can see are still fighting a war. We are losing almost every single day one GI. They are fighting this war in Iraq. They do not deserve to be held hostage by this majority, a majority that has made no bones about their complete and their utter indifference to these families' plight.

The people who have been excluded, these are some of the hardest working people in the country, people who earn minimum wage. They often work two or three jobs just to get by to help their families, and when we think about it for a moment, every minimum wage earning mother in this country paid more taxes than the Enron Corporation did. Enron Corporation paid no taxes in the last 4 out of 5 years. Every one of these families have paid more in taxes than a multibillion dollar corporation.

Make no mistake, this is an all out assault on millions of decent families in this country who work hard. They play by the rules, but this majority cannot put partisan politics aside and act simply and decisively to restore to these families the tax relief that they have rightfully earned, and it is an outrage but it also speaks volumes about their values and their priorities.

It has now been a month since this majority stole this child tax credit from these families. This calendar that is here tonight is here to remind this majority of those six-and-a-half million families that they hold hostage every day because they refuse to simply do what is right.

We will count down to July 1 when 25 million families are going to get the child tax credit, but these hardworking families are not. Every day this injustice is not corrected, every day they ignore the needs of honest, hardworking families in this country, is another day Democrats will be talking about this on the House floor. Every day the House takes up another bill that cuts taxes for the wealthiest people in this country is another day that we will be talking about this on the TV, on the radio and in the newspapers.

□ 2030

Every day will be another day that this will not go away, and it will not go away until this House has done something about it.

So I want to let my Republican colleagues know in no uncertain terms that the clock is ticking. We do not need to see a 2-month anniversary of this injustice. The time to act is now. Twelve million children are waiting.

MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, I rise tonight to talk about one of my favorite subjects, health care, and in particular to talk about the Medicare Prescription Drug and Modernization Act of 2003.

I am surely thankful this evening that I have this opportunity to talk about something which truly should be a bipartisan issue, the health of our Nation. I am particularly pleased that it is bipartisan on a day like today, when I learned before boarding a plane to come back to the Congress that a

great man in Georgia had fallen. Former mayor, three-term Mayor Maynard Jackson has died. And I stand here tonight with a great deal of humility following some of the speakers who have already paid tribute to Mayor Jackson: the minority leader, the gentlewoman from California (Ms. PELOSI); the gentlewoman from California (Ms. WATSON); the gentlewoman from California (Ms. WATERS); and my colleagues and friends from the Georgia delegation, the gentleman from Georgia (Mr. LEWIS); the gentleman from Georgia (Mr. BISHOP); the gentleman from Georgia (Mr. SCOTT); and the gentlewoman from Georgia (Ms. MAJETTE).

Maynard Jackson was a great Georgian and a great American. For me to stand up here this evening and talk about the many things that he has accomplished would be a little bit redundant. I could talk about his efforts to bring the Olympics to the city of Atlanta in 1996, and he of course played a great part in that; but that is just a small thing that Mayor Jackson has done, and it would be not nearly enough just to point to that. My colleagues have done a wonderful job tonight in describing him and their deep friendship with him.

Let me just say that all Georgians mourn tonight the passing of Mayor Maynard Jackson, and we extend our heartfelt sympathy to his family. I would like to actually take just a few seconds of my time tonight for a moment of silence in tribute to Mayor Maynard Jackson.

I thank my colleagues.

Mr. Speaker, America has the world's best health care system because it relies on innovations of the private sector. A competitive free market system provides incentives to develop better drugs, better treatments, better care, and better forms of health care delivery. The President's framework for Medicare reform would apply the best practices of the private health care market to Medicare.

As successful as Medicare has been, it has not kept pace with dramatic improvements in health care because it is a government program, immune to many market forces. Medicare still does not provide seniors with an outpatient prescription drug benefit, full coverage for preventive care, or limits on high out-of-pocket expenses. As a result, our seniors lack many of the choices and benefits available to millions of Americans who have private health insurance.

Mr. Speaker, I would like to call on some of my doctor colleagues in this body who are with me tonight to talk about Medicare and the reform that we are going to pass in H.R. 1. So at this time I would yield to my colleague, the gentleman from Pennsylvania (Mr. MURPHY), to address this topic.

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Georgia for yielding time. Mr. Speaker, I rise today to voice my support for the Medicare prescription drug bill that will be considered by the House later this week.

In the coming days, we are going to hear a lot of reasons why this bill is so important to our seniors. And, frankly, many of those reasons are correct. This is an important and long-overdue bill. I would like to say that prior to coming to Congress I was honored to serve as a State Senator in Pennsylvania, and there I served as chairman of the Committee on Aging and Youth, where we constantly worked to provide much-needed services for all seniors, but especially low-income seniors in Pennsylvania.

I should note that, in Pennsylvania, over 15 percent of our population is age 65 and older. Some of my colleagues might be surprised to learn that only Florida has a higher percentage of seniors age 65 or older. Access to prescription drugs means a lot to Pennsylvania seniors, as it does throughout the Nation; but in Pennsylvania we are fortunate to have a comprehensive State pharmaceutical assistance program that has been in existence since 1984. It is referred to as PACE and also PACENET.

For the last 19 years, low-income seniors in Pennsylvania have enjoyed access to affordable prescription drugs funded through the lottery program. Pennsylvania's PACE and PACENET programs currently serve about 220,000 seniors, spending about $500 million a year. It is the second largest program in the Nation. I have spoken to many of my constituents that have used PACE and PACENET over the years, and they have all told me one thing: it is a good program, they trust it, and it makes a huge difference in their lives.

Other seniors in Pennsylvania, as well as throughout the Nation, are asking, however, is there something else that can be done to assist them? Even in some small way, given the cost of prescription drugs for so many of them, very often over a thousand dollars a year, they need some assistance. And, Mr. Speaker, I want to point out that we are not just talking about quality-of-life issues. These drugs are often about life and death itself, and this is why this legislation is so incredibly important to our seniors.

When I won my election to this House of Representatives, one of my top priorities was to ensure that States with pharmaceutical assistance programs would be protected under this bill. That is extremely important because over a dozen States dedicate funds to provide some level of pharmaceutical assistance for the elderly. It is important for those citizens to know that Congress is working to protect those States that have invested so much. Some of the neighboring States to Pennsylvania, New York, New Jersey, nearby Connecticut, Florida, so many States have these programs and have invested so much. So seniors are asking us, will we still have some of these benefits, and the answer is yes.

I am pleased how closely Pennsylvania's delegation has worked together on this issue, and I particularly appreciate the Chair of the Subcommittee on Health of the Committee on Ways and Means, the gentlewoman from Connecticut (Mrs. JOHNSON), her guidance, support, and leadership on this issue. This legislation will fully integrate PACE and PACENET for Pennsylvania and other State pharmaceutical assistance programs into the new Medicare prescription drug benefit.

This means that for low-income seniors in Pennsylvania they will continue to enroll in and benefit from PACE and PACENET even if they have a choice of other plans to participate in. It gives PACE and PACENET the opportunity to continue to wrap around those programs and make sure that low-income seniors can continue to benefit from them. It also creates a commission so that PACE, PACENET, and Medicare are integrated into a single seamless benefit. Pennsylvania will have a seat on that commission, ensuring minimal disruption for PACE and PACENET beneficiaries.

Let us not forget that when people are in their 70s, 80s, and 90s, the last thing they need to juggle is how to deal with prescription drug benefits. They need a single seamless entity, whether it is a magnetic card they can swipe or whatever. The pharmacist and the physician will know what that senior's coverage is and will be able to help them in the simplest possible way to make sure they have access to that coverage.

For Pennsylvania, an integrated benefit means Medicare will share a significant portion of PACE and PACENET drug costs, and this freezes up additional funding for PACE and PACENET, possibly some $200 million a year. So the General Assembly can both shore up the financing of those programs in Pennsylvania as well as expand eligibility into higher-income levels, good news to many seniors, who up to this point have been paying out of pocket or trying to pay for other insurance policies.

But this bill is not just good for Pennsylvania citizens; it is good for all of our seniors. I would like to focus on another important aspect of this bill. Our seniors cannot afford to wait any longer. We in Congress must act to create a Medicare prescription drug benefit because seniors should never have to choose between food and drugs. The unfortunate truth is that seniors without drug coverage are more likely to skip doses or go without filling a prescription.

According to a 2002 study of seniors in eight States, among those with serious health problems, such as congestive heart failure and diabetes, one-third of those who lacked drug coverage reported skipping dosages in order to make their prescriptions last longer. What this means is that rather than controlling their diseases, they are more likely to end up in the hospital for expensive procedures.

In addition, access to newer prescription drugs has been shown to lower

spending on other services, such as hospital care, due to fewer inpatient stays. Prescription drug coverage just makes sense. And if a senior does not take their medication, they are more likely to fall ill and end up in the hospital.

I fully expect over the next couple of days that, despite people calling for bipartisan cooperation, which sometimes, unfortunately, are just words in this town, people will try to poke holes in this bill. They will say it does not cover enough; it is not all things to all people. Mr. Speaker, I do not think there is a single piece of legislation that ever comes out of this assembly that everybody agrees on all portions of. But seniors have been asking for help, and it is important to them that we say help is on the way. It is time to dedicate our energies not just to rhetoric and partisan politics to use this as a mechanism to attack each other. Because seniors see right through this. One elderly gentleman told me, my eyes may be failing, but sometimes we are not as dumb as you think we are. We know what is going on, and we need help and we need it now. So it is important we pass this bill.

It is 2003, and seniors deserve comprehensive insurance coverage that includes prescription drugs. I urge my colleagues to join me in voting for this bill later this week. It is important, it is necessary, and it is critical we do it now. I thank my colleague.

Mr. GINGREY. I thank, Mr. Speaker, the gentleman from Pennsylvania (Mr. MURPHY), who, of course, talked a lot about the prescription drug benefit and how important a part of this Medicare reform that piece is, and indeed it is.

I want to call my colleagues' attention to this poster to my left in regard to, of course, strengthening Medicare. There are some other points that I want to make that I think are extremely important and that the President and the leadership of this Congress know all too well. Of course, my colleague from Pennsylvania was talking about the prescription drug benefit for our seniors, but this plan does so much more than that. So much more than that.

The Republican plan preserves Medicare for the future. We all know of the actuarial studies. We know of the bipartisan Commission on Medicare Reform. Everybody knows that if we do not do something in this legislation about preserving Medicare for the future that by the year 2030 the program, particularly the trust fund, the hospital trust fund, will be completely insolvent.

□ 2045

Then the other thing about this reform is the very, very important point of giving seniors choices. What this bill will give to our seniors is a choice to remain if they want to remain in traditional Medicare, fee-for-service, something they are comfortable with. If they are not ready for a change, yes, they can remain in traditional Medicare and get the complete prescription drug benefit that the gentleman from Pennsylvania (Mr. MURPHY) was talking about. So this is very important. This is not a one-legged or two-legged stool; it is a three-legged approach, and we are going to have a good program for our seniors.

Of course the gentleman from Pennsylvania (Mr. MURPHY) was talking about sometimes a senior in his district could not see very well or hear very well or maybe their limbs are aching and they do not get around as well as they used to; but if Members come to my district and my town hall meetings, Members know they are thinking and are smart and understand this issue and want relief and want it now. That is what H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003, is going to give to them.

Now, let us talk a little bit about some of these seniors. The gentleman from Pennsylvania (Mr. MURPHY) did a great job of touching on that and talking about some of the people in his district. Let me point out in this poster, providing for catastrophe, assistance for seniors in need, provisions in this legislation assist seniors facing catastrophic medical costs. Let me give an example of some folks in my district that are facing catastrophic medical costs.

Mr. And Mrs. Grady Jenkins are senior citizens who live in Rome, Georgia, in Floyd County, northwest Georgia, the heart of my district. Mr. Jenkins is 79. He is a World War II Navy veteran, and he worked at Georgia Craft, a paper mill. He and his wife have to pay $1,200 a month for their medicine. After they pay for their medicine and their living expenses, they can barely afford to eat. This could easily be a picture of Mr. And Mrs. Grady Jenkins. They are worried because the cost of fuel for heating and air keep rising. They do not know how they are going to make it.

Let me give another example, again in the 11th Congressional District of Georgia, George and Vera Rohr live in Buchanan in Haralson County. Mr. Rohr is a 72-year-old veteran and a Purple Heart recipient. He worked and retired from Lockheed. They are drawing Social Security, and they have a supplement. Unfortunately, he suffered an aneurysm last year; and with the doctor bills and the medicine they both have to take, they have depleted their savings, and now they are struggling to make ends meet. They go from paycheck to paycheck. She tries to pick up odd jobs when she can just to buy the groceries.

Horace Cline was a pharmacist for 49 years in Cave Springs, Georgia. He remembers a time when it only cost 50 cents to fill a prescription. Now he sees antibiotics that cost more than $10 a pill. He does not see how people can afford their medicine. Most of his elderly patients are on a fixed income, and most have three or four prescriptions a day to take. Many people have more than that. The average 75-year-old senior is taking 4½ prescription medications a day, and many of these do cost $10 a pill. This cannot stand.

In his little community, this pharmacist, he hears tragic stories every day of people sacrificing basic needs to buy the drugs they or their spouses need to stay alive. He remembers a little lady that only received $400 a month from her husband's retirement fund. Her prescriptions cost $300 a month, hardly leaving anything for food. He said it is not uncommon for people to ask for a stronger dose of the medicine so they can buy fewer pills and break them in half to be able to afford them.

Mr. Speaker, if you have ever tried to break apart one of these pills, let me say it is not easy. It is not easy for some of our weight-lifting friends, much less our senior citizens who are not so strong any more. People are improvising anywhere they can just to be able to afford the medicine and the doctor bills.

Mr. Speaker, it is a great honor to be in this 108th Congress, to be a freshman Member of a great group of men and women. I have great respect for Members on both sides of the aisle. I have a special deep respect for some of my physician colleagues who are Members of the 108th Congress, and one in particular, a freshman like myself who for many years practiced obstetrics and gynecology in Texas. He has only delivered fewer babies than I have because he has not been at it as long as I have.

Mr. Speaker, I yield to the gentleman from Texas (Mr. BURGESS) to speak on this very important issue.

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding; and I would add to what the gentleman has just said, he is quite right, we do have a good class on both sides of the aisle and certainly a lot of people look to our freshman class for leadership on this and other issues.

I thank the gentleman from Georgia (Mr. GINGREY) for inviting me to talk about this important work that this House has undertaken to improve the Medicare program. The gentleman of course knows that Medicare is a 38-year-old government program, having been there at its inception. I came along a little later.

Mr. GINGREY. Mr. Speaker, I must say I absolutely deny being there at the inception of Medicare; maybe it was close, but not at the inception.

Mr. BURGESS. Mr. Speaker, I thank the gentleman for pointing that out. Medicare is a 38-year-old program, but unfortunately it has done little to adapt to the practice of medicine. There is no doubt that Americans have benefited from the development of new and innovative medications. These new drugs can improve and extend lives. It is a simple fact that fewer and fewer of us will die from acute illnesses, but more and more of us will be living with chronic conditions which mean the use of medications.

Drugs exist that can dramatically reduce cholesterol, fight cancer, and alleviate debilitating arthritis. Potent cancer-fighting drugs are reducing breast cancer mortality rates with great success. An entire new class of medicines, collectively known as selective estrogen receptor modulators, are reducing breast cancer mortality rates and one day may see an expanded role in the actual prevention of this disease.

Drugs that fight prostate cancer, diabetes and other life-threatening diseases are not available as a basic part of Medicare, forcing beneficiaries to often make difficult decisions related to their health. Medicare beneficiaries should have access to these drugs, just like so many of us have access to prescription drugs through our own health plans. Medicare was established to improve the health and well-being of America's seniors.

Because the current program does not provide prescription drugs as part of its basic benefit, it is hard to say that Medicare as-is lives up to that promise. With nearly 40 million people enrolled in Medicare and the number of Americans over 65 expected to increase substantially over the coming years, it is important that we approach this issue with clarity and foresight. We should be aware that if this Medicare change is not done right the first time, we could be leaving for our children and grandchildren a commitment that will be difficult, if not impossible, to meet.

This new entitlement, if not implemented properly, could threaten to imbalance future Federal budgets and displace other important priorities.

The bill that the Committee on Energy and Commerce and the Committee on Ways and Means approved last week tries to meet the needs of seniors today and on into the future and attempts to balance the future Federal spending commitments, but we must also be aware of ways that we can hold down the price of prescription drugs and further the taxpayer resources that will be devoted to a Medicare prescription drug benefit.

The United States, through our trade representatives, must work with foreign countries to dismantle their drug price control structures and embrace free market principles. No longer should our uninsured and our elderly bear the cost of pharmaceutical research and development for France, Germany, Canada, Japan and a multitude of other countries. By bringing the purchasing power of the Federal Government to bear, we should be able to positively impact the price of pharmaceuticals sold in this country through free market principles.

It is time to deal seriously with other countries that put our most vulnerable citizens at risk. We acknowledge our obligation to protect the American people from policies of foreign governments that can be described as predatory at best. And if we cannot hold down the price of drugs through market principles, the taxpayer will suffer. Because of the decisions made by this Congress, the beneficiary could bear more and more of their medical costs, and the health of all Americans could suffer because of less access to innovative drug therapies. This Congress stands at the threshold of improving the lives of America's seniors today and of course tomorrow's seniors as well.

Mr. Speaker, this is the first and possibly the only chance that we will have to get it right. We debate this Medicare bill largely through the lens of how we think our entire health care system should be reformed. We must implement commonsense, market-based reforms to hold down the cost of care and improve the doctor-patient relationship.

Bills such as H.R. 2114, the Health Access and Flexibility Act, would increase access to medical savings accounts for all Americans and grant States the flexibility to provide Medicaid and children's health insurance program recipients with health coverage under an MSA model by providing Americans with incentives to hold down medical spending through mechanisms such as a medical savings account and giving them more flexibility in how they spend their own money on medical costs. We can do a better job of containing the cost of health care and achieve better health outcomes.

And so it is with the current debate. We must all ask ourselves the question whether this legislation will meet the health needs of seniors and be accountable to taxpayers for the generations that will follow us. We are here debating this issue because of the absence of action, the absence of action by prior Congresses; but the failure of past Congresses and administrations must not hinder us from these two goals.

Mr. Speaker, we stand at the threshold of implementing important reforms that will impact the health of millions of Americans; but the gentleman from Georgia (Mr. GINGREY) is right, we need to do it now and we need to do it right.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Texas (Mr. BURGESS) and, of course, the gentleman brings up some very good points about other reforms that this Republican majority, this administration and this leadership are going to present to the American public.

The gentleman mentions the new and improved medical savings account. These are not for our seniors, and we are here tonight primarily talking about what we are doing to reform and improve Medicare, both the traditional fee-for-service and the Medicare advantage and the enhanced fee-for-service option; but also as the gentleman from Texas (Mr. BURGESS) points out, we are thinking much broader. We are thinking about what we can do for younger workers so they can plan for their future, so they can plan for the day that they become a senior. That is what the gentleman is talking about with regard to medical savings accounts which are so important because so much of the money that is spent on health care in this country today is going toward extended care and skilled nursing facilities as an example, many times after prolonged hospital stays.

The current Medicare program has no catastrophic coverage whatsoever. After an individual has spent 60 or 90 or at the very most 120 days in the hospital in any 1one year, there is no coverage. Our seniors have no coverage; and whatever nest egg that mom or dad or grandparents have accumulated it is gone, it is exhausted. In many instances when they have to go to an extended nursing care facility for a prolonged stay those benefits are extremely limited and there is no money left to pay for it. The part paid for by Medicare is very limited.

□ 2100

So what happens to these individuals? They do not get thrown out on the street. Thank God, we are more compassionate in this country than that. We would never let that happen. But they become indigent. They literally become indigent. Then they are Medicaid eligible and so much of that Medicaid money which, of course, being a Federal-State cost sharing, in some instances 60–40, maybe 50–50, very expensive, and where are most of the dollars going? They are going to pay those bills in these extended care facilities.

The gentleman from Texas is so right. I am so appreciative, Mr. Speaker, to the gentleman from Texas for pointing that out to us. We are doing more than just reforming Medicare for the future and providing a prescription drug benefit for our seniors. We are going to make sure that those who will become our seniors in the future and ad infinitum will have a way to pay for things like extended care insurance. This is so very important and I am so appreciative of the gentleman from Texas for bringing that up.

Mr. BURGESS. If the gentleman will yield, of course this is a little bit off the subject but so terribly important that we make our constituents aware, especially those who are younger or middle-aged that the time to look into long-term care insurance, not a program that will be provided by the government but something that you should do as being a responsible member of society, the time to look into providing for long-term care for yourself and your spouse, the time to do that is now. I again recognize that that is a little bit off our subject tonight, but it does tie into the greater knowledge that at some point the Federal Government's ability to pay for everything that is going to be required possibly could be outstripped. By someone being responsible and providing for themselves and their families now with long-term care insurance, this is the time to do it for individuals our age and a little bit younger.

Mr. GINGREY. I thank the gentleman for bringing that to our attention because he is so right, and to have someone like the gentleman from Texas who has spent an entire career practicing medicine, being there every day and, of course, as an OB-GYN every night and every weekend as well, he understands the big picture. That is why it is so important to have Members like the gentleman from Texas bringing this information forward.

I see the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) has joined us, the former Speaker pro tem of the Assembly in the great State of Florida. I yield to her on this very important subject. I thank the gentlewoman from Florida for being with us tonight.

(Ms. GINNY BROWN-WAITE of Florida asked and was given permission to revise and extend her remarks.)

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I would just like to correct the previous speaker. I was the President pro tem of the Florida Senate, not the Assembly or the House. It was the Florida Senate. When I was a Florida Senator, we had an option that we pushed for and actually achieved. That was, we offered prescription assistance to low-income seniors. When we were developing the bill, of course we had to live within a budget. We lived within the budget. I can just tell you that it is almost like I can predict what will happen. We will hear from the other side that it is not enough. For those people who are benefiting, something is better than nothing. The plan started out relatively small and it grew and it expanded. But we were helping the very low-income seniors in the State of Florida.

I rise today to remind my colleagues of the extreme importance of providing a prescription drug benefit for our seniors on Medicare. I cannot emphasize enough what a difference having a prescription drug benefit will make in the lives of our seniors, especially those low-income seniors, many of whom reside in Florida. I have a large number of seniors who are retired who regularly call my office, who regularly stop me in the grocery store and after church to tell me of the problems that they are having paying for their prescription drugs that equate to a quality of life. Seniors who rely on Medicare have nothing to help defray the cost of their prescription drugs, the majority of them. Some do have prescription drug programs, but the majority of them have only Social Security in my congressional district and they truly do need the help that a good prescription drug bill will provide. Seniors covered by Medicare right now are probably the select few who are paying retail prices for their prescription drugs. You and I might go to the pharmacy and pay either a small copay or a very small fraction of the cost of our drugs. We would go ballistic if a pharmacist told us that the prescription that we needed, quote, wasn't covered. Well, guess what? Seniors face this every single day.

A constituent called just as I was leaving the office this morning and told me how she has to pay $7.50 per pill for just one of her prescriptions. For people on a fixed income or anyone, for that matter, that is an enormously expensive drug. Yet this is a prescription drug, costly as it is, that my constituent needs to stay alive.

Mr. Speaker, I am new to this body. I have not been around for years of debate on this issue in this House. I was not here for the two previous sessions where there was a successful vote to bring a prescription drug benefit to our seniors. Maybe that makes me idealistic, maybe less jaded, whatever you want to call it. But I just cannot envision going home and telling my constituents, justifying to them, or trying to justify to them why Congress cannot give them a prescription drug benefit. I hope that I never have to try to justify that.

The previous occupant of the congressional seat from Florida's Fifth District voted against the prescription drug bill that was there in 2002. I made a commitment early on that I would vote for a prescription drug bill. The prescription drug bill that has been worked through two committees, both Ways and Means and Energy and Commerce, is coming along very well. It is a bill that I have some reservations about, but the reservations are mainly about the cost. But we should begin a program and we should actually probably tie that program to the $400 billion that we have appropriated to make sure that we stay within the budget guidelines.

Mr. Speaker, I again ask the Members of this House to join me in voting for the prescription drug bill that will be before us later on this week. It is important, I think, not just for a State like Florida where there are many senior citizens, I have the fourth highest senior population in this whole Congress, but it is important to every senior who struggles to meet those prescription drug costs.

Mr. GINGREY. I thank the gentlewoman from Florida. The gentlewoman from Florida brought up a couple of, I think, really, really good points, and that is the fact that our seniors who are not on a plan, and they are probably close to 30 percent, by anybody's estimate, probably 30 percent of our seniors have absolutely no coverage whatsoever. They do not have so-called MediGap or supplemental insurance. They are not getting a retirement health benefit that includes prescription medications from their employers. Thank goodness, many in that group are not poor enough to be dual eligible; that is, eligible for both Medicare and Medicaid. Those dual eligibles, of course, have a prescription benefit. And so we do have maybe 65, maybe 70 percent of our seniors do have a prescription drug benefit, but even those, Mr. Speaker, probably spend at least 50 percent out of pocket, what they have to pay. That 50 percent when you are talking about being on four or five or six pills a day and some of them costing $9 and $10, that mounts up in a hurry and that is where you get into these situations where people are having to choose between groceries and their medications. That is a very sad, dangerous situation.

I really appreciate the gentlewoman from Florida bringing up the fact that when these seniors go to their internist, to their primary care physician, indeed, yes, occasionally to their OB-GYN and get a prescription, but sometimes it is not just one prescription. They have these multi-system diseases. Sometimes there are two or three things that are failing at the same time. It takes these medications to keep our seniors healthy and well. So when they go to that pharmacist, as kind, as caring, as loving as the local corner druggist may be, they have got a handful of prescriptions, they do not have a plan to help them get a discount with volume purchasing and that sort of thing. There is no pharmacy benefit manager for them. They are paying sticker price. Our seniors know it. They are paying sticker price. It is pretty painful when they go back to that car and maybe they were only able to get half of that prescription filled or as we pointed out earlier, I think, one of the speakers mentioned that our seniors sometimes will ask for double the dose or maybe quadruple the dose so they can go home and get out that little pen knife and cut that pill in half or in quarters so they can stretch the budget, if you will. It is a very dangerous situation. Mistakes can be made, sometimes catastrophic, tragic mistakes.

The gentlewoman from Florida is bringing out a very important point, that these seniors are getting no breaks in the marketplace. We need to give it to them. That is what we are going to do in this prescription drug benefit under Medicare modernization.

Ms. GINNY BROWN-WAITE of Florida. If the gentleman will yield, actually in my district it is more like 50 percent of the seniors have no retirement prescription drug plan. I have many low-income seniors who have a little bit above their Social Security income, or just their Social Security income. My mother-in-law is a perfect example. She only has Social Security. If it were not for her children helping her, she would be one of those seniors making those very dangerous decisions. But not every family can help and not every family is willing to help. And so for the sake of the seniors who truly need assistance, this is the right thing to do and it is the right time to do it. I am sure that when we go home over the Fourth of July break that we will be hearing from our constituents throughout the Nation, thanking us for taking this step and keeping our fingers crossed that we come out with a great bill, between the Senate proposal and the House proposal that we truly will have a bill that will help seniors desperately in need of assistance.

Mr. GINGREY. I thank the gentlewoman. Mr. Speaker, no Member of this body understands this better than the gentlewoman from Florida. The Sunshine State is where all of us want to go to retire and live out a very, very healthy life there in that beautiful State of Florida. She has got probably a disproportionate number of her constituents who are our beloved senior citizens. She knows of what she speaks. I really appreciate her bringing that to us.

I would like to at this time recognize once again my physician colleague in the House, the gentleman from Texas.

Mr. BURGESS. I thank the gentleman for yielding. I would like to point out that when this Member retires, of course, he plans to go to the Lone Star State and make his retirement there, but his comments are well taken. The gentleman from Georgia knows this very well. He pointed out that an occasional senior will see their OB-GYN and, of course, they see their OB-GYN for monitoring and diagnosing conditions such as osteoporosis. Those medicines for osteoporosis, now fortunately a lot of those are administered on a weekly basis. But if a senior goes home with that prescription and finds it is too expensive to fill, the next time that doctor is going to be aware that the medicine has not been taken is when the follow-up bone density study is done 12 or 23 or 24 months later and no improvement or in fact a worsening of the condition has occurred because the medication could not be afforded by the patient, putting them at serious risk for hip fracture and all of the costs attendant with that. Of course as the gentleman knows, there is a 25 percent mortality within the year of that hip fracture for some groups of seniors.

This is a terribly important point. Although the gentlewoman from Florida is quite correct, there are some concerns about the cost of the bill, there are also concerns about the cost of doing nothing. Certainly the gentleman from Georgia and I both recognize that.

I also feel obligated to mention one other aspect, and we have talked about this before on the floor of this House, that is, of course, the bill H.R. 5 which we passed last March. Getting meaningful medical liability reform in this country will do so much to improve the affordability of not just Medicare but health care in general. The cost of defensive medicine in this country, according to one study that was done out at Stanford in 1996, is nothing short of staggering and it is really almost beyond my comprehension that we could expect to have any type of meaningful Medicare reform with cost containment without somehow getting our arms around the problem of the expense of medical liability in this country and the expense of the practice of defensive medicine.

Mr. GINGREY. I wanted to ask the gentleman, I am glad he brought that point up, about medical malpractice premiums and what it is doing and, of course, has resulted in a lot of defensive medicine practiced not just by our physicians like myself and the gentleman from Texas, Mr. Speaker, but also by the hospitals, by our facilities who are forced to protect themselves, to order in many instances a lot of tests that they really feel are not absolutely necessary but it is done in the interest of defending themselves against possibly a frivolous lawsuit that could be devastating to either that individual practitioner or to that little rural hospital in our small communities, and like my 17 counties in the 11th Congressional District of Georgia, many of these hospitals as an example, these rural hospitals, disproportionate-share hospitals that see so many Medicare and Medicaid patients, they are going to end up closing their doors.

□ 2115

And I really appreciate the gentleman from Texas, that Lone Star State mecca where actually, as he pointed out, every day is a good day to be in Texas, not just during retirement years. But I wanted to ask the gentleman from Texas about the cost and what kind of estimates, if any, do we have on the cost of defensive medicine without getting a good tort reform bill passed?

Mr. BURGESS. Mr. Speaker, I am going to apologize to the gentleman from Georgia. I do not have those figures at my fingertips. The last time I looked at that study by McKissick out of Stanford, for two diagnostic groups within the State of California, only that being chest pain and acute myocardial infarction, the cost was in the billions; and when we extrapolate that over hundreds of diagnostic codes over the 50 States, obviously that is a significant number of dollars.

Mr. GINGREY. Mr. Speaker, to the gentleman from Texas, I appreciate that. And that is exactly right, when we extrapolate that, and I have gotten verification of these numbers from the gentlewoman from Connecticut, the chairman of the Health Subcommittee under the Committee on Ways and Means who has done so much work on this bill, and I really commend her leadership. She has indicated to me that defensive medicine is costing the Federal Government and indeed the taxpayers of this country $14 billion estimated over the next 10 years. That would go a long way toward paying for this prescription benefit that we are going to be offering this year.

Mr. Speaker, the gentleman from Texas was talking earlier about the cost of prescription drugs and what we can do about that. Of course we are going to be providing a good prescription benefit for not just our neediest seniors. Of course the program is weighted toward them as well it should be, but we are providing a benefit for all of our seniors. But along with that, along with that, as the gentleman pointed out, it is very, very important that we address this issue of the cost of prescription medication. I think most people in this country, certainly the seniors that have to go and purchase those expensive drugs, know that it is just too much; and we need to continue to work very hard, as the gentleman from Texas points out, to get the market forces working to bring the price down, to make the pharmaceutical industry compete, as well they should and they are doing; and that is what we want.

We do not want government price controls. We want the market to determine, and we want of course these businesses, pharmaceutical businesses to have an opportunity to make a fair profit to recover, as the gentleman from Texas pointed out, the tremendous cost involved in research and development; and that of course is something that I think is extremely important. But we definitely feel that the competitive forces of the marketplace will bring prices down. And certainly, as we pointed out earlier, when a senior is part of a group, as we know, with the wonderful organization many of our seniors have memberships in AARP and they have a drug discount card.

In fact, I would like to just point out if I can get everyone's attention on one of the posters to my left, this is the typical medical prescription card which seniors will have, and they will be issued by a number of organizations. And with those cards if we did nothing else, and we are doing much more, as we pointed out earlier, but if we did nothing else, just the opportunity to buy as a group and the force of the marketplace, it is going to bring down the price of prescription drugs for all Americans but especially for our seniors.

Mr. Speaker, I wanted to spend a little bit of time talking about the Medicare program; and of course the gentleman from Texas mentioned a little earlier that the gentleman from Georgia, myself, was there from the inception of Medicare, and my wife told me to be sure to let the Members of this body know that of course I was there from the inception. I was just a very precocious first grader, but I do remember very well in 1965 when the Medicare bill was first passed, and the emphasis then in most health care was seeing one's physician, occasionally of course being admitted to the hospital for a needed surgical procedure. Nobody thought too much really in 1965 about the fact that here in 2003 that people would be on maybe four or five drugs. The average person 75 years old could be on that much medication. So there just really was not the emphasis in 1965, but things changed. Things have changed in many other aspects of our society. When I was in college, we used a slide rule. Nobody even knows what a slide rule is today. Our automakers gave us an Edsel, and now we have the new and improved and revised and beautiful Thunderbird. We need to

do that with Medicare. We truly need to do that with Medicare.

I have been practicing long enough to see some significant changes; and I have seen managed care, health maintenance organizations with a great emphasis on preventative healthcare, preventative healthcare; and I applaud that because it is extremely important. If we wait to treat people when an episode of poor health or an accident has occurred, then it is so expensive, not to mention the tragedy and the suffering and the loss of life that occurs, but just the expense of waiting until a person is so sick and they show up in the emergency room, that paradigm has got to shift. That paradigm has got to shift.

I tell my colleagues in the House, Mr. Speaker, of my experience recently of going through so-called open heart surgery that I was faced with right after winning this election to the Congress, and now I am on five prescription medications every day. I am not a senior citizen yet. I am not Medicare-eligible. But I know they are very, very expensive, very expensive; and it just makes me think how important it would have been for me and how important it is for our seniors who maybe just turned 65 to be able to get the medications that they need to strengthen their bones, to prevent osteoporosis, to lower that blood pressure so they do not have a premature heart attack or a stroke and end up in a nursing home for the rest of their lives.

So things are changed. Society has changed. And now I do not think there are many physician colleagues of mine in this great United States who would not agree that a prescription benefit is every bit as important as a hospital benefit or a surgical benefit, and we have got to make that change. And that is what this President is doing. That is what this administration, that is what this leadership, what the gentleman from Illinois (Speaker HASTERT) and the gentleman from Texas (Mr. DELAY) and the chairmen of our committees of jurisdiction, the gentleman from California (Mr. THOMAS) of the Committee Ways and Means and the gentleman from Louisiana (Mr. TAUZIN) of the Committee on Energy and Commerce, and their subcommittee Chairs are bringing to us. They are bringing not just this prescription benefit, but they are also bringing an option for change so that our seniors can get the same health care benefit that we, Members of Congress, have available to us and that all Federal employees have available to them, to be able to go to enhanced fee for service or a Medicare advantage plan where there is an emphasis on preventative health care, where they can get a routine physical done, where they can get their blood screened for lipid profile and cholesterol so that we will know early, early on, if they are at great risk for developing one of these serious illnesses. That is what it is all about. Colonoscopies, mammograms, things that will keep people healthy and prevent them from getting so far down the line with an illness that they cannot recover.

So that is what we call, Mr. Speaker, compassionate conservatism. That is what this President and this administration and this Republican majority and this leadership is all about, and that is what we are going to bring to the seniors of this country. We are going to bring a prescription benefit that is weighted toward the needy, that has a catastrophic cap; and, yes, that cap is going to vary depending on a person's income or net worth, as well it should. I think it is only appropriate that we take care of our neediest first, but all seniors need the same kind of benefit that I enjoy and other Members of Congress and Federal employees enjoy.

So that is a very, very big part of this program. It is not just providing a prescription benefit but also giving our seniors an opportunity and an option. Of course, they can remain in traditional Medicare, which we all know about a comfortable pair of shoes and we get used to something and change is difficult. I know change was difficult for me when I gave up a medical career to join the Congress and get on this rather steep learning curve. It is scary. It is scary, and maybe some of our seniors will decide to stay in traditional-fee-for-service Medicare, but they will have a prescription drug benefit. They will have the same prescription drug benefit.

What they will not have in that traditional paradigm is they will not have any catastrophic coverage. They will still have catastrophic coverage of course for the prescription benefit, but not for other costs involved like hospital stay or nursing home stay; and that is what we are trying to avoid by giving them an opportunity to join one of these other options where it is a competitive environment and an opportunity for these plans to compete against each other and lower the cost at the same time they are providing this preventative health care benefit like I mentioned, routine physicals, routine screening, and, yes, indeed, catastrophic coverage so that people who have worked all of their lives to build a little nest egg not become destitute and burdens on society in their senior years. That is not right. That destroys their dignity.

□ 2130

And if I do anything in this Congress, I am going to work hard to make sure that that does not happen to our seniors.

So in conclusion, Mr. Speaker, I want to thank my colleagues who are with me tonight to discuss this tremendously important issue. We do not have the perfect plan. Yes, bills can be improved, and that is what the committee process is all about. That is why we have two committees of jurisdiction and very intelligent people working on this bill to perfect it. This is so much better, Mr. Speaker, this is so much better than what we have currently. I am just very proud of our leadership, and I am very proud to be supportive of the Medicare Prescription Drug and Modernization Act of 2003.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINCOLN DIAZ-BALART of Florida (during Special Order of Mr. GINGREY), from the Committee on Rules, submitted a privileged report (Rept. No. 108–174) on the resolution (H. Res. 292) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2555, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004

Mr. LINCOLN DIAZ-BALART of Florida (during Special Order of Mr. GINGREY), from the Committee on Rules, submitted a privileged report (Rept. No. 108–175) on the resolution (H. Res. 293) providing for consideration of the bill (H.R. 2555) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPUBLICAN PRESCRIPTION DRUG BILL OUTLAWS BULK PURCHASING POWER TO NEGOTIATE LOWER DRUG PRICES

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under the Speaker's announced policy of January 7, 2003, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. LANGEVIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of this Special Order.

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

There was no objection.

Mr. LANGEVIN. Mr. Speaker, tonight I am pleased to be joined by many of my Democratic colleagues to discuss the lack of cost control provisions in the prescription drug bill before the United States House of Representatives, H.R. 2473. In particular, I feel that it is so essential that we call

attention to the fact that this bill does nothing to use the country's bulk purchasing power on behalf of our seniors to lower the high cost of prescription drugs, the purchasing power we should be using to ensure the lowest cost of medications for our senior citizens. Quite the contrary, this bill expressly forbids it.

Like many of my colleagues, I held a sincere hope that the 108th Congress would overcome the inaction that has plagued this issue at the expense of America's senior citizens for so many years. I am extremely disappointed that the bill before the House this week not only fails to offer a structured and sound prescription drug benefit for Medicare beneficiaries, but also contains provisions that threaten the stability of the program that has provided health benefits for millions of elderly people and young adults with disabilities for the past 38 years.

While we all come to the floor with a range of grave concerns about this bill, my Democratic colleagues and I join together tonight with the united message that the House of Representatives must take action to address the rapidly rising costs of prescription drugs. H.R. 2473 not only fails to address this crisis, it actually contains a noninterference clause prohibiting the Secretary of Health and Human Services from using the bulk purchasing power of Medicare beneficiaries to negotiate for the lowest prices for senior citizens, a tactic that has proven effective in the State of Maine and is developing in Illinois and in other States.

Like many other places in the country, my home State of Rhode Island uses bulk purchasing power for seniors eligible for Medicaid to negotiate discounts for this population. America's seniors have made it clear that they want the government to assist them in obtaining their prescription drugs at a fair price.

Now, it infuriates me that in a situation where we have over 40 million people with a common and basic need, instead of taking advantage of that purchasing power to negotiate the lowest prices for the most rapidly increasing component of health care, the Federal Government is considering outlawing that practice. Amazing. The Federal Government is considering outlawing that practice.

An analysis of H.R. 2473 by the Consumers Union shows that spending on prescription drugs continues to grow. In fact, if we do not take action to curb the costs now, seniors will pay more out of pocket in 2007 with the prescription drug benefit as is currently proposed than they are paying in 2003 without it. Yet, just last week, the Committee on Energy and Commerce defeated an amendment that would have repealed the noninterference provision and allowed the Secretary of Health and Human Services to negotiate with drug companies in a similar manner to that of the Secretary of Veterans Affairs and Medicaid programs. I think that is something that is worth noting. It is already being done successfully with the Veterans Administration in providing a drug benefit to our veterans at very low cost, and the government is able to buy these at obviously a reduced cost, in making sure that our veterans get the benefit that they need, these vital medications that are so important in keeping them healthy. Yet we are going to prevent the Secretary of Health and Human Services from doing the exact same thing for the rest of the seniors in this country who are struggling to get by in paying for their prescription medications. It is simply counterintuitive.

Studies show that seniors in other industrialized countries are paying significantly less for their prescriptions than America's seniors. And, in this case, the short answer really does sum it up. It is because their governments took action to protect their interests when it comes to pricing prescription drugs. In Canada where citizens pay, on average, 50 percent less than the seniors I represent in Rhode Island, for the five most commonly prescribed drugs, the government uses the bulk purchasing power of its people to help them, and that is the way it should be. My constituents are paying 292 percent more, for example, for Prilosec than they would be in Italy where again the government uses the bulk can purchasing power of people to help them. Prices in other countries are not the result of government contributions or subsidies to drug companies; they are the result of governments using purchasing power of significant blocks of people to negotiate better prices. It is very basic.

Let us also look at another area while we are on this subject of using mechanisms to reduce drug costs. Another place where we can take action to reduce the high cost of medications is generic drugs. Last week our colleagues in the Senate took substantive measures in their Medicare reform bill to address the rapidly escalating cost of prescription drugs by easing market entry of generic drugs. In fact, their vote to do so was nearly unanimous: 94 to 1. At the same time, the House leadership, though, in a quest to push through a mere pretense of a prescription drug benefit, has failed to acknowledge that without measures to control the cost of prescription drugs, any benefit will deteriorate in value over time. America's seniors deserve better than this.

Mr. Speaker, it is amazing. The Republican leadership is so eager to subsidize the insurance companies and allow drug manufacturers to continue to exploit America's seniors in the name of the free market system, but is apparently unwilling to use that same free market system to allow the natural market force of 40 million individuals, our struggling senior citizens, to come into play.

The noninterference clause, a small section on page 250 of a 321-page bill, must be brought to light. We must draw attention to the fact that any prescription drug benefit is rendered meaningless unless action is taken to curb the out-of-control costs of drugs that people need to stay alive.

I thank my colleagues who have joined me on the floor tonight to highlight the fact that at this very moment America's seniors are making choices between taking their medications as prescribed and putting food on their tables. Just this morning I joined Dr. Sarah Fessler and the Rhode Island Academy of Family Physicians in releasing a survey showing that a third of seniors in Rhode Island are relying on physician samples for their necessary medications, and 20 percent are failing to take them as prescribed because of costs, skipping prescriptions to make them last longer, and failing to refill them. The survey reiterates what we already know: that cost is the greatest barrier to seniors taking their prescriptions.

This situation, Mr. Speaker, will not fix itself. I urge my colleagues to pay careful attention to the details of H.R. 2473 and to think critically about the effect, or the lack thereof, it will have on the seniors in their districts.

Mr. Speaker, I am pleased to yield to the distinguished gentleman from Maine (Mr. MICHAUD), who in his first term has taken tremendous initiative by introducing the America Rx Act under which the Federal Government would act as a pharmacy benefits manager to negotiate low prescription prices for America's seniors, and it is very appropriate that he be the first speaker this evening, and I welcome him.

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

Mr. Speaker, this week we are prepared to debate a Medicare prescription drug package. We are focusing all of our energy on trying to pay for expensive prescription drugs. But one important aspect of this debate is missing; that is, finding a way to make drugs less expensive to begin with.

The fact is that drug prices continue to rise and are spiraling out of control, forcing more people to choose between medicine and food. Talking about paying for prescription drugs without talking about prices is like going to a grocery store telling them to fill up your cart and handing them a blank check. We are letting the company decide how much to charge and then we are proposing to have the government foot the bill.

Last month, I met with a group of seniors in my district in Bangor, Maine who were on a bus trip to Canada so they could buy the medicine they need at a price that they could afford. And guess what they saved? Out of 18 senior citizens, they saved over $19,000, just by crossing the border. That is a crying shame.

Like most Members of this House, I believe that expanding access to prescription drugs is one of the most important issues that we face. That is why I have taken the creative Maine Rx approach, which just received a favorable ruling from the United States Supreme Court, and brought it to this Congress.

Earlier this year, in an attempt to make prescriptions more affordable for all Americans, I introduced H.R. 1694, the America Rx Act of 2003. America Rx uses the power of the free market to negotiate lower prescription prices for all Americans who lack adequate coverage, similar to what they do in the Veterans Administration. We are the only industrialized Nation that does not negotiate lower cost for prescriptions, and it is time for a change.

Like Maine Rx, America Rx is a fresh approach that will not cost the taxpayers a single dime. This approach is simple, it is fair, and it works. It is time for America's seniors to gain access to affordable, lifesaving prescription drugs. We will be doing all Americans a disservice if we do not include ways to contain the cost in the upcoming debate.

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman. Again, I share wholeheartedly in the statements that he has made, and I want to commend him for introducing H.R. 1694, the America Rx Act. Again, as the gentleman states, this bill establishes an America Rx program to establish fair pricing for prescription drugs for individuals without access to prescription drugs at discounted prices and, as the gentleman said, modeled after the Maine Rx program, by the Federal Government acting as a pharmacy benefits manager to negotiate the lowest prices. This approach uses the power of the free market to allow millions of American senior citizens, with no access to discount, to pool together and negotiate as one block. I cannot see what could be more basic than that. That is what certainly this Special Order is all about tonight.

I am now pleased Mr. Speaker, to yield to the gentleman from Maine (Mr. ALLEN), who has shown tremendous leadership on this issue by introducing the Prescription Drug Fairness for Seniors Act, which would require drug manufacturers to allow pharmacies to purchase drugs for resale to Medicare beneficiaries at the same price equivalent to the average foreign price based on the price consumers pay in six other industrialized nations.

□ 2145

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding, and I thank him for his leadership in holding this Special Order tonight.

Many people across the country are really confused about what all these prescription drug plans mean for them. They are trying to sort out whether the Republican plan or the Democratic plan or whatever plan may be up, how it might possibly help them in the future. And, frankly, you cannot blame anyone for being confused out there because there are so many descriptions flying back and forth. But it is worth highlighting one that the gentleman from Rhode Island (Mr. LANGEVIN) highlighted before and my friend, the gentleman from Maine (Mr. MICHAUD) was mentioning as well and that is the way these two approaches treat the subject of price.

It seems that in every instance the Republican plans do everything they can to avoid trying to reduce prices; and, obviously, that is consistent with what the pharmaceutical industry wants. But the most remarkable thing about the prescription drug proposal made by the Republicans here in the House is actually like the Senate bill; it contains a provision essentially saying to the Secretary of Health and Human Services, you shall not negotiate lower prices for Medicare beneficiaries. And what are they afraid of? What are they afraid of?

Every private insurance company in the country tries to negotiate the lowest prices they can for themselves and for their beneficiaries. It really makes a huge difference. But here you have the Republicans in the House saying you cannot negotiate lower prices. They might as well say to the Federal Government, to Health and Human Services, we think you should pay higher prices to the pharmaceutical industry. Above all, we do not want the pharmaceutical industry to be paid less.

I did not bring them tonight, but I have some charts that go back in history; but they show that over the years every time there has been a major effort to improve the ability of seniors or anyone else to get their prescription drugs, they show that the pharmaceutical industry comes in and says, if you do this to us, if you make generics more widely available, if you have a rebate program under Medicaid, those are the two major developments over the last 15 years, if you do either one of these things, then we will have to cut back on research and develop.

And what happened in the aftermath of those acts? The 1988 Hatch-Waxman Act, which made it easier for generics to get into the market and in the mid-1990s a provision that basically capped Medicaid prices. In both cases, the industry said, we will have to cut back on research, and in both cases what the industry did was dramatically increase funding on research.

The truth is that all of this fear about what the pharmaceutical industry will do is misplaced. What our people need is very simple. They need lower prices.

Now, our seniors pay the highest prices in the world, the highest prices in the world for their prescription drugs. Here you have the biggest health care plan in the entire country, Medicare, 40 million beneficiaries, obviously some real ability to leverage lower prices; and the Republican bill in the House explicitly says we will not allow the Secretary to negotiate for lower prices. That is not where our home State of Maine is going. That is not where private insurance companies go. It really is completely off the wall. There is absolutely no reason to do that.

But when you look at the Republican plan in the House, you can also see that the benefit is not very good. It is really not very much. For example, if you pay, if you wind up with $4,900 of drug expenses in the course of a year, you are going to wind up paying about $3,600 of that all by yourself. For many Americans, for those whose drug expenses are less than $1,367 a year, all of those people, if they sign on to this plan will pay more in than they ever get out. It will not make any sense for them. And it is also true between about $2,400 and $4,900; those people with lose money as well. It is because the benefit is completely inadequate.

Now, we have our friends on the Republican side coming down here and saying what this country needs, what our seniors need is the same kind of prescription drug benefit that members of Congress have. Well, if that is what they need, why not provide it for them? Why not give them a prescription drug benefit more or less like we have, one with an 80/20 co-pay, for example? But they will not go there. And there is a reason why they will not go there. They cannot go there. They have given all the money back. They have basically got tax cuts; if all of their plans go into effect, they will have reduced tax revenues over 10 years by about $4 trillion. No wonder there is no money left for a real prescription drug benefit under Medicare. No wonder there is not enough money to fund Head Start or not enough money to fund special education or not enough money to even fund the President's initiative, No Child Left Behind. They have given the money back to people who earn over $370,000 a year.

Now, I suppose some people would say that is a very needy group; but it is hard to figure out, particularly when you have seniors all across the country who are choosing between food, rent and prescription drugs. I mean, there are so many stories; they cannot all be repeated. But I know one couple where he takes his medication one month, she takes her medication the next month because they cannot possibly pay for both of them. And that is why so many people in Maine and across the country now get their prescription drugs through Canada.

What does Canada do? Why is Canada so special? The bill I have introduced, H.R. 1400, the Prescription Drug Fairness for Seniors Act, basically says to the pharmaceutical companies, you cannot charge Americans more than the you charge the Germans and the French and the British and the Italians and the Canadians and the Japanese, the other 6 countries in the G–7.

Just take the average foreign price, you cannot charge more to our people, our Americans, than you to do to those people in those other countries. It is that simple. And yet that is exactly what the Republicans will not do. They simply will not go there because their friends in the pharmaceutical industry cannot abide the thought of having the government do what the insurance companies do, which is negotiate lower prices.

We hope, in the State of Maine, and we hope across the country that people will finally understand that unless the government works to negotiate lower prices, our seniors will continue to pay the highest prices in the world. It is not right, and it needs to change. But it will not change in this House this week when the Republicans pass their prescription drug bill because they will talk about choice, but there is not much choice out there.

The President was out on the stump not so long ago and he said, we want seniors to have the kind of choices that members of Congress have, choices among many plans. Well, in my State and many States, guess how many choices I have? One. I have one plan in the State of Maine, one health care plan that I can choose. One. Not two, not three, not ten. One. And that is all there is. And this is what this bill promises. This bill promises, they say they are going to try to give the insurance companies enough money so there will be two plans in every district; but, in fact, this is a product that does not exist, this kind of insurance on prescription drugs. It looks and feel like another way to get past the next election, to have a plan. It does not take effect until 2006. What are we really talking about?

We need to reduce prices for our seniors. We ought to do it now. I thank the gentleman; I appreciate his time and leadership on this issue.

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman for his words and for his leadership on this issue. He was very eloquent tonight, as he has been so many times in the past in addressing the prescription drug problem, in fighting for our seniors. I commend him for his service in this House and for his work on this issue.

I am now, Mr. Speaker, very pleased to yield to the gentleman from Illinois (Mr. EMANUEL), who has consistently worked to reduce prescription drug costs through targeted market reforms, a freshman Member of this House who has already shown his compassion for seniors and his leadership. I thank him for being here this evening.

Mr. EMANUEL. Mr. Speaker, I would like to thank my colleague from Rhode Island.

Tomorrow in a bipartisan fashion with about six Republicans and six-or-so Democrats, we will be introducing an amendment to the prescription drug bill that focuses on bringing competitive forces to the pricing of prescription drugs so we can make prescription drugs affordable to not only our elderly but our American families.

I think one of the things that is missing in this entire debate, in this entire strategy, is how to make drugs and prescription drugs more affordable and more accessible to people. How do you do that?

There are three parts to this bill. The first part would bring generic drugs to market quicker so name-brand drugs and pharmaceutical companies cannot employ frivolous lawsuits to keep generics off markets. If you had competition between generics versus prescription drugs, you would bring prices down from name-brand drugs.

The second portion of that bill, and that portion of the bill has been adopted by the Senate and also enjoys bipartisan support in this Chamber as it enjoys in the other Chamber. The second, as my good colleague from Minnesota, a Republican, a good colleague, enjoys overwhelming bipartisan support and also adopted in the Senate in bipartisan fashion, was the market access bill. It enables consumers, elderly as well as other families, to buy medications, Canada, Mexico, Israel, Italy, Germany, France, Netherlands, Great Britain and all of those countries, the same name-brand medications sold here in this country are sold in those countries at 50, 60, 70 percent reduced prices, but they are American-made medications.

Now, if we can import steel, we can import cars, we can import software, we can import wheat, food products and everybody always wants to espouse the virtues of globalization, well, let us allow them globalization to bring prices down here at home for prescription drugs.

Globalization is not supposed to be a one-way road just for corporations and their bottom line. Globalization is supposed to work for consumers. So allow globalization to work so if you can find that drug in the German market or the British market for cheaper, you could be allowed to buy it. It is called market access. So competition between generics versus name-brand. Allow us to buy products in West Germany or Canada or Mexico, wherever you can find them cheaper. Allow the global marketplace to determine the best price for the consumer.

The third portion of the bill is a bill that allows, take the family of drugs for cancer or AIDS. Every one of the medications on the market today was developed with government research, taxpayer money through the NIH. Allow the NIH to get a 10 percent royalty for that investment back to the taxpayers. You would do that, and in 10 years the NIH would be fully self-funded. It is one of the great venture capital arms in the entire world.

I worked in the private sector. We used to believe you look for a 30 percent IR, which is an investment return on your equity. Anything below a 30 percent return was considered ''dumb money.'' And we have been treating the taxpayers like dumb money. Give the taxpayers a minimum of 10 or 15 percent return on their investment, and the NIH would be fully funded in 10 years through investment royalties.

In addition to that tax-funded research, whether it is in cancer, AIDS or any medication out there, today the taxpayers subsidize research through the R&D tax credit, research and development tax credit. And so not only are the taxpayers in this country paying on the tax credit on the upfront side through NIH funded research, but on the back side through research and development tax credit. We are paying for it twice. And the only benefit left to the American taxpayer is they get to pay the highest price for that drug when it comes on the market. They fund the research, and they get to pay the highest price.

□ 2200

The pharmaceutical industry in this country has been treating the seniors of this country and the American families with sick children as their profit guinea pig. They earn their profits off the back of Americans who have paid for the research.

It is my view what is missing is we need the market forces to bring the prices down so they are more affordable and more accessible to our elderly. If we are going to spend $400 billion on a prescription drug bill do my colleagues not think we want to get the most for our money? So in my view what is missing from this debate, what is missing from this discussion, what would make sure that we spend our $400 billion wisely is a market forces of competition from generic to name brand, prices overseas in Europe to American prices and then a return on our investment. That would bring real competition, and therefore, we would have the market forces working on behalf of the taxpayer rather than against them.

I am proud that we have a bipartisan bill, a lot of Republicans on it, a lot of Democrats. I think it represents our common values, but a number of people in this Chamber who will always be up here, we will hear them on every other debate, espouse the virtues of a free market. I am going to allow free market to reign. I came from the private sector. I think it is a wonderful thing.

I do not fault the pharmaceutical industry. They bought and paid themselves out of a free market when it comes to name brand versus generics. They have bought themselves out of a free market when it comes to preventing consumers from buying things in other marketplaces like they do any other product, and they have treated us like nothing but chumps when it comes to getting our tax dollars to fund the research. Yet they get the profit and we get the biggest payday with the highest prices.

So it is my view that if we bring the market forces to bear we will make drugs affordable, and most importantly, because the government will be

funding the research as they do today, we will guarantee that those drugs continue to come to market and America stands as number one in the area of research for new drugs, new medications to cure other illnesses.

The Boston Globe did a story, and I will bring this back up. Thirty-two out of 35 of the drugs that they targeted were developed with NIH or FDA funding. We can make the whole NIH which is $26 billion fully self-funded. The last time in 1984 is when we passed a bill to get bring generics to market. Are we saying in close to 20 years our laws do not need an update, what it means to accelerating this research, that our laws allow pharmaceutical companies to keep generics off the market?

So we can do this, we can make the medication on our $400 billion we spend on a prescription drug benefit go farther, insure more people, get benefits and drugs cheaper to seniors, if we would allow the free market to reign when it comes to the pricing of drugs.

I know my fellows on the other side of the aisle believe in the free market. I am just going to give them a chance to put their money where their mouth is, and I look forward to the support of others in this area. I am pleased that my colleague organized this today because we focus the country on this. We are going to do I think what is right, get a prescription drug bill, but just because we do it does not mean it is right. It is how we do it that determines whether it is right.

I am pleased that we have support for all this. It is the right type of area. It makes sure that we have affordability. It makes sure, too, that we stay in the frontlines of having the best medications developed because we have been focusing on the taxpayers funding this research, now we are going to guarantee we get a return on our investment. As long as they want that tax R&D credit, which they should have, the pharmaceutical companies, we are going to make sure we get a 10 percent, 15 percent royalty on those dollars we invested.

Every cancer drug on the market today was funded by the taxpayers. Corporations got the profit and we got the biggest bill in America. Our brothers and sisters and fellow consumers in Germany and England and France are enjoying the benefits of taxpayer funded research. They are paying minimal prices at 50 percent, 60 percent less than we are. We are paying the highest price. They get the drugs for a cheaper price, and the corporations in America get the profits, and we get to pay the highest bill.

As we would say in Chicago, such a deal. That is what has happened.

So we need to take this three-step approach, all of it based on the principle of the free market. We bring the free market, we bring competition, it will drive prices down, spend $400 billion, reach more seniors with better affordable prescription drugs, and we will make the medications more accessible, more affordable because they will be cheaper in price.

Again, I want to thank my colleague from Rhode Island for organizing this and bringing the attention to this issue and allowing all the different perspectives to be brought to bear here in this Chamber.

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman from Illinois for his very powerful words on this debate. I could only wish that every taxpayer in America could have heard those words tonight, along with our seniors, because it really crystallizes the debate itself, and I know we are going to be working on this together, both tomorrow, the rest of the week and until we bring this issue home. I thank the gentleman from Illinois for his comments.

That is an important aspect of this debate, the fact that taxpayer dollars have funded so much of this research, have developed these medications, and the only thanks that our taxpayers have received in return, our seniors have received in return, is high cost prescription medications that they cannot afford. That is outrageous and it is wrong.

We, as a compassionate Nation, as a determined people, have to do something about it. We have to change that and we have to make our prescription medications within reach for our seniors. No senior in America should have to make the choice between food and medication or paying their rent, not when it was their taxpayer dollars in the first place that helped develop those medications.

Mr. Speaker, I said earlier in my remarks, and each of the speakers tonight have again reiterated the argument, that we should let the free market system determine the cost of these medications, and by that, as I have said before, it means allowing our seniors to join together, use their bulk purchasing power to negotiate the lowest cost price for these medications. No prescription drug benefit should be passed by this House without that being a major component of that bill. No other insurance company, no other private insurance plan would have a prescription drug benefit without that component contained within it, and neither should one pass by this House.

Who does it benefit to pass a prescription drug benefit that does not include a component that uses the bulk purchasing power of this Nation without it being present in the bill? Is it the taxpayer? Well, certainly not because they are not getting the lowest negotiated price. Is it the seniors who are struggling to afford their medications? Well, certainly not.

It is the insurance companies, though. It is the pharmaceutical companies who do benefit: Let us keep the prescription drug prices high, let us keep the profits outrageously high, let us not be able to use bulk purchasing power that would negotiate a lowest cost price for our seniors, no, because that means that the pharmaceutical companies, the insurance companies, are out profits. That is simply wrong, Mr. Speaker, and I hope that my colleagues on both sides of the aisle will recognize this argument for what it is and do the right thing by our seniors.

Let us do what is done in Canada, in Great Britain, in Italy, in Japan, nations that for their seniors use their bulk purchasing power to bring down the high cost of medications that allows their people, their seniors to get the medications that they so readily need to stay healthy, which in many ways are wonder drugs and have become a replacement for surgery, but again, what good are they if our seniors cannot afford them? They have recognized that in Canada, in Great Britain, Italy, G–7 nations. We need to recognize that here in America.

Mr. Speaker, I thank my Democratic colleagues for joining me tonight to bring attention to this critical component of an issue that we all continue to debate throughout this week. In particular, I want to express my gratitude to the Members who have been persistent in supporting stand-alone legislation on the topic of rising prescription drug costs in recent years.

While it has yet to be brought to the floor, there is significant support in this Chamber for several pieces of legislation that would control prescription drug costs. We have heard about some of them. Tonight, we heard of the gentleman from Maine's (Mr. ALLEN) bill, H.R. 1400, the Prescription Drug Fairness for Seniors Act, which would significantly reduce prescription drug prices for all Medicare beneficiaries by requiring drug manufacturers to allow pharmacies to purchase medications for resale to Medicare beneficiaries at a price equivalent to the average foreign price based on the prices consumers pay in six other industrialized Nations. This legislation would provide up to a 40 percent savings on prescription drugs.

There is also bipartisan support for the Greater Access to Affordable Pharmaceuticals Act, which would speed the market entry of generic drugs by closing loopholes that are being used to lower priced competitors in the marketplace. We have heard about this this evening as well.

It is the right thing to do, to look at all of these options for controlling the high cost of prescription medications. We owe it to our seniors to look at this and do the right thing by them. We owe it to our seniors to fight for these cost controls.

Again, I ask the Republicans in this House to champion an issue that they have always championed and that is using the free market system, allowing the free market system to operate, to come to an equilibrium price. If we do that for our seniors, then everybody wins and we will have bipartisan support on that effort. It is the right thing to do. It is my sincere hope that the Republican leadership will see the light

and allow Members to offer these bills and other amendments to the Prescription Drug and Medicare Modernization Act of 2003.

I will continue to work with my Democratic colleagues to promote legislation that will provide substantial medication savings for our seniors rather than the high profit margins for drug and insurance companies.

Mr. Speaker, I thank my colleagues who have joined with us tonight in speaking on this important issue.

ELIMINATION OF THE DEATH TAX

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for half the time from now until midnight.

Mr. MCINNIS. Mr. Speaker, I wanted to take a little time this evening to discuss an issue which I think is very basic but fundamental to American families, to the dream of American families in this Nation being able to pass on through their hard work, one business or a farm or a home or some type of asset from one generation to the next generation.

Unfortunately, in this country we have put into our tax code one of the most unfair, unjustified taxes that any tax code could have, and that tax is called, for short, the death tax. It has got a fancy word which they say the estate tax, but in fact, what it is is it is a tax upon a person's death. It is not a tax that is invoked for any other reason but for the fact that a person has died, and the moment they have died, the government, the State Government and the Federal Government, of course led by the Federal Government, shows up at the grave site and tries to get into that person's estate and invoke this death tax.

There is a little history to the death tax. The death tax, as I said, from any scholarly point of view, from any economic point of view, from any business point of view, if we take a look at the death tax, there truly is no justification for it.

□ 2215

On top of the fact that there is not a justification for the tax, under any economic sense, any economic study, on top of that, the tax is also at least a double taxation. Because the death tax is not a tax on property that has been accumulated during one's lifetime upon which no tax has been paid. When this property is accumulated by an individual, tax is paid either at the time of the accumulation or at the time of the sale. So this tax is not an attempt to collect some tax that for some reason or another has evaded the tax man's notice. That is not what this tax is about. This is a tax that is a tax on property that has already been taxed, and, in some cases, more than once. In some cases, two or three times.

Now, look, everybody agrees that we should carry our fair share of the burden. Nobody disagrees with that. We know that to operate a government, to operate a military, to operate the needs of the government that we have to have some revenue. But we determined a long time ago that that taxation ought to have at its fundamental core the word fairness. It ought to be fair. And time after time we have said, including in recent action by this body of the Congress, we have said time after time after time that double taxation hardly fits within the definition of fairness. It is not fair to tax somebody twice on the same property. And that is exactly what the death tax does.

Now, I believe that the death tax is a pretty good issue that shows a fundamental difference between the Republican Party and the Democrats. In my opinion, all of the Democratic candidates that are running for the Presidential office here in a couple of years support the death tax. Every Democrat, to the best of my knowledge, the Democrats that in this House or in the other body in the U.S. Congress that have a net worth of more than $1 million and that voted against elimination of the death tax have already done trust planning. So they do not have to pay the death tax.

We have people, for example, not just Democrats here in the House or on the other side, but we have other people out there, whose party affiliation I do not know, for example, Warren Buffett, and people like Bill Gates's father, and these are very, very wealthy individuals, and these are individuals who stand up and say that we ought to keep the death tax in this country. What is ironic about this, and frankly, in fact, a little hypocritical almost, and if it were not so serious it would be amusing, but I can remember several months ago where at one of these parties, and I think it was Bill Gates, Sr. who was doing an interview about how as a very wealthy individual, from a very wealthy family, that they supported the death tax. But where was he doing the interview from? He was doing it in the offices of their foundation. And what is the purpose of that foundation? The purpose of that foundation is to avoid the death tax.

So there are some very wealthy people in this country who, along with the liberal side of the Democratic Party, say we support the death tax, we think it is fair to have a death tax; but the reality of that is that if they have any money of their own, these individuals have already created foundations or have done trust work so that they largely avoid paying any kind of death tax. So that is not the kind of source we want to look to for some type of scholarly view as to whether or not a death tax is justified.

I do not look to the ivory towers of our universities to come up with some conclusion as to whether or not we should have a death tax. Where I look is, I go out into my district. I go out across this country; and I talk to the people who have worked hard, who have wanted to accomplish the American Dream. And one of the American dreams, and I think pretty much all my colleagues at some point or another in their life have had this dream, and that is to become successful, to be successful to the extent that they are able to help the generation behind them, their kids, their children; to be able to give them a start; to be able to maybe help them enjoy part of the life that they have enjoyed.

And for the sake of disclosure, Mr. Speaker, let me just mention that in my family, on my wife's side of the family, they have a family ranch. They have been in the ranching business since the 1860s or the 1870s out in Colorado. This is a beautiful ranch. It is beautiful not just in its physical characteristics, but it is beautiful in that the family, generation after generation after generation, has loved the land and has been able to stay on the land.

Now, in the past hundred years or so, or 50 years, ever since the death tax has been in place, one would think we live in a socialistic type of society where there is some kind of punishment for dying; it seems we want to make sure the family behind you does not have that opportunity to be able to live on that ranch and work the land like this family, the Smith family of Meeker, has done for generation after generation.

I can find example after example, Mr. Speaker. So one might ask, how did the death tax come about in the first place? Well, the death tax was designed to be a punishment against the wealthy, those very wealthy icons around the turn of the 19th century, the Ford family, the Carnegie family, the Rockefeller family, people like that. In society at that point in time there was such a large division between the very, very wealthiest and the population as a whole that somehow the politicians were persuaded that there should be a punishment in this country.

Here we are, in our classrooms, teaching that this is the greatest country in the history of the world, in part because we encourage innovation, and innovation has as its basic incentive reward. An individual is rewarded for innovation, that in our country if you invent a cure for cancer, you can become wealthy; in our country if you make a better seat belt, or as the old saying used to be, if you make a better mousetrap, there is incentive out there. We do not live in a socialistic society where no matter what you contribute, your share of the pie is always equal. That is not what we believe in. That is why socialism will never equal capitalism. But the reality of this tax is that somehow way back then the politicians decided to punish the wealthy people of this country, those few wealthy families.

What they never imagined was that it would not just punish the wealthy. In fact, it would not really punish

those wealthy people at all, because most of those wealthy people throughout time, including today, including the Gates family, and I have respect for their accomplishments, although I disagree with them on the issue, but it does not really punish them because they are able to hire hundreds, or whatever numbers, of attorneys to get them out of it. Where it is punishing Americans is in the middle class of America.

You do not have to be wealthy to be hit by this thing. Prior to the Republican movement, led by our President, in which we at least begin to phase out the death tax through the year 2010, prior to that all a person really needed to own free and clear was, say a bulldozer, a dump truck, a pickup, and your office building for a little construction company. And guess what, your family was going to face the death tax upon your demise. This is a tax that is directed at the middle class of America, and it is a punishment tax so that the middle class of America, again because the wealthier class is able to plan around it, this is designed to take the middle class of America and make sure that instead of encouraging family businesses or family farms, instead of encouraging that to go from generation to generation, it serves as a punishment.

Now, let me just say that in the last 2 weeks this House once again said that we should take the elimination of the death tax, which is totally eliminated in 2010, but, unfortunately, comes back in full force in 2011, once again this House last week took action to permanently eliminate the death tax. And, frankly, I am stunned, not surprised, but I am stunned that we did have 44 Democrats, and I am not trying to get partisan on this issue, but let us call an ace an ace. The fact is this is one of the differences between the Democratic Party and the Republican Party, and that is the death tax; but I can say that 40 or 44 Democrats last week came across and voted with the Republicans to permanently eliminate the death tax. The rest of those Democrats did not come across. They support this tax. And it is a debilitating tax on the middle class of America.

Mr. Speaker, do you know what happens to some of these farms in my area that have to be sold for death taxes? They are not sold for ranches or farms. I live in the mountains of Colorado. That is my district. What happens when these farms or ranches are sold, they are turned into 35-acre ranchettes. They are turned into condominium projects. The open space that makes Colorado beautiful, that makes most of us in this room want to vacation in Colorado, gets turned into condominiums. Why? Not because of some greedy rancher that wants to make money. The Smith family could have made a lot of money a long time ago. But it is because our very own government forced this family to sell that ranch so that that ranch, the proceeds from the sale of that ranch could be used to pay the government.

Now, I have heard the argument, and I want to explore the argument a little, but I have heard the argument that, well, we need to spread the wealth. This is class warfare, and we saw it during the debate on the tax credit a couple of weeks ago; we saw it on the vote of the death tax. The Democratic philosophy, and let us lay it out here, the Democratic philosophy is more of a transfer system. If you get somebody that makes money over here and somebody does not quite make it over here, you ought to do some transfer to try to make them equal. But I can assure my colleagues that just works as a disincentive. We cannot have everybody be equal economically, or we would never have any incentive for someone to do better.

When we take a look at the arguments being used by the Democratic Party, by the liberal leadership over there, and I am talking about the minority leader, who is an ardent supporter of continuing this death tax, their argument is, well, gosh, what we do is we take from a wealthy family, and again let me remind everyone it is, in most cases, not a wealthy family, in fact this tax comes from middle-class families, so what they say, well, we get it from the people who have the money and we give it to people that are more in need of the money. Let me give an example of what happened to a family I know out in Colorado.

Mr. Speaker, I will not use the names of this family; but first of all, the father, the husband and wife started out with the wife as homemaker. He started out as a janitor in a construction company. Eventually, over 4 or 5 years, he became the bookkeeper of the construction company. Pretty soon, he was able to borrow enough money to buy the construction company. Pretty soon he had 5 or 10 people working for him. Then, 10, 20, 25 years later he was the largest investor in the local bank, he was the largest contributor to the local church, and he was the largest employer. Hundreds of people worked for him in the community. He was by far the largest contributor for everything from United Way to the Boy Scouts, to the Girl Scouts, to whatever. What happened, unfortunately, his wife got cancer and passed away. And then, unfortunately, my friend got terminal cancer as well.

Now, what happened is he sold the bank, the interest he had in the bank, and he got hit with capital gains taxation. Which again, fortunately, in the latest tax cut, we have reduced that to 15 percent. And I commend the President, the Speaker of the House, and I commend the majority leader in the Senate for leading the way on getting this capital gains reduced so that we can help bolster this economy.

□ 2230

But back to my story. In this town what happened was my friend sold the interest in the bank and got hit with capital gains. Shortly after selling the family interest in the bank, he was diagnosed with terminal cancer and died 3 months later. The estate tax when combined with the death tax on top of the capital gains tax, that family was taxed 71 cents on the dollar. That does not mean that the family was able to take 29 cents on the dollar, that is not what happened because they were not able to realize the true value of their assets because their assets were sold at a fire sale. They were forced to sell.

The family told me they thought they were able to keep a property that they had already paid taxes on in many cases more than once, on property that their father and mother had accumulated over a 65-year period of time, they were able to maybe keep that family for the next generation about 18 cents. How did they get the money, they had to sell the construction company. They had to stop contributing to the local charities, lay off employees, and sell transferable assets that were moved out of the community.

What happened to that money in this case? Did that money stay in that local community? It did not. It did not stay in that community. This is one of the bad things outside of the fact that the death tax is unfair. That money did not stay in that local community. That money was transferred to Washington, D.C. When it went to Washington, D.C., how many cents per dollar do you think ever went back to that tiny community in Colorado once it got back here to the bureaucracy? Probably nothing or some small fraction.

But what was the impact on that community when they took those properties and transferred it, simply because of the reason that the person, the two people that had earned it had died, that is the only reason this punitive tax was put in place, what happened, the church which he and his wife contributed 70 percent of their budget to, there were no more donations to the church. The employees lost their jobs. The construction company was forced to be sold. My understanding is that the construction company ownership, they then moved the construction company out of town. It hurt that community at different levels all throughout that community.

Mr. Speaker, it pokes a hole in the liberal argument. It is almost like a socialistic-type approach that we ought to tax these people that are wealthy or upper middle class that die, it is good for the community. It was not good for the community. It devastated that community. Let me remind my colleagues here, we are not talking about somebody who had not paid their taxes. They had paid taxes year after year after year. This was not untaxed property. The only reason that property was hit with the death tax was because of the fact that a death had occurred. That was the trigger event. That is what caused it.

Let me step back and tell Members, it is not just that community alone. I

brought letters over. In the United States Congress, we get letters every day. I grabbed a few of them about the death tax. I want to read some of them.

Dear Congressman, We have operated a family partnership since the middle 1930s. My parents died 5 years apart in the 1980s, and the estate tax on each of their one-fifth interest was three to four times more than the total cost of the ranch which was purchased in 1946.

Mr. Speaker, this family bought a ranch in 1946 and the death tax when the husband and wife died was four to five times the original purchase price of the ranch. Tell me how one Democrat could vote to continue this tax. As I said, 40 some of the Democrats voted to get rid of this tax, and I commend those 40. But for my other colleagues, and I say this respectfully, but for my other colleagues on the Democratic side who refuse to join the Republicans and the 40 conservative Democrats, how can you look at this family, how can you go to this family and justify this kind of tax on that property, on that family farm out there in middle America?

Let me go on. Here is another letter. I am a student at the University. I grew up in a family that has lived and thrived in agriculture for many years. My parents and grandparents are involved in a typical family farm, a farm that has been in the family for more than 125 years. Grandpa is 76, and in the last years of his life. My parents have been discussing this situation for the last several months. My parents worry about the death tax and about how they are going to be able to keep the farm running once grandpa passes away. The eventual loss of my grandpa will trigger this death tax on the family's farm. My parents hope that they will be able to pay the tax without having to sell part of the farm that my family has worked so hard over all these years just to keep the ranch together, just to make it so it can operate at a profit. The outcome does not good look good, however.

Mr. Speaker, farmers and ranchers are having enough trouble, and we are not just talking about farmers and ranchers, we are talking about small businesses, we are talking about the American dream. We are talking about a lot of families in America. Finally, through our leadership here, we were able to at least for a period of time begin to phase this tax out and eliminate it in 1 year. But unfortunately, because we could not get the votes on the other side, this tax comes back in full force.

Going back to the letter: Farmers and ranchers are having enough trouble keeping family operations running the way it is. My family has worked very hard to keep the family farm running this long. We feel like we are being penalized because one of our family members has died.

Here is another letter. This letter is not a plea for help, Mr. Congressman. Although I am not a victim of this tax, I appreciate the effort against it. I firmly believe that Congress and the government at large needs to recognize that America's future is and will always be firmly rooted in the success of small business. Many of these businesses are family owned, and they need the next generation to continue them into the future. I spent a few years working for a small, family-owned business. Not just myself, but several workers depended on the income that they derived from working for this small business. I fear for these workers when the tax man comes knocking. This tax has claws that rip at many people, and then the immediate family of the deceased has to worry about whether or not they can even continue the business, about the punishment that is being dealt to them by the government. It has a huge impact on the employees of the family business. I hope that people recognize this and will have an opportunity to eliminate it.

Here is another letter. As you know, farming and ranching is no slam dunk. If our farm is ultimately faced with the death tax burden, there is absolutely no way we could ever afford and justify holding onto this farm. This in turn will prevent us from: 1, keeping the farm for future generations; 2, keep it from becoming just one more development out in the middle of the country; 3, keep us from making it available to the deer and elk; 4, keeping it unavailable for other uses, for multiple use. You need to know, Congressman, we are only able to meet the daily operating cost of our farm under the present economic conditions of agriculture. Unless there is positive action taken by Congress on the death tax, we will start making the necessary plans to arrange our affairs so the family is the ultimate winner of the lifelong struggles of both my parents, Roberta and myself. There is no way we will allow the IRS and the government in Washington, D.C. to take it all away from us. They do not deserve it. But what does that mean, it means of course that we must begin the destruction and the development of one of the largest, most beautiful open spaces still left out in this part of the country. We do not want to do that, but we do not have any choice because of this death tax.

Here is another letter. Our 106-year-old mother passed away. Because we knew she was fearful of being placed in a nursing home, and we never considered it an option, my husband and I took care of her in our own home 2 days a week. She was alert, and we believe she would be living today if she had not injured herself. We are now faced with the unpleasant and unexpected task of selling our family home which was acquired by our parents in 1929 and where they raised six children. Prior to World War II, my parents had a greenhouse business on five acres of farm property. After World War II, the family returned from the relocation center where those of Japanese ancestry were incarcerated and signs that said ''No Japs Wanted.'' My father died of a heart attack in 1953. My mother lost the business located on two acres, four greenhouses, the heating plant, the packing shed, which, by the way, had two bedrooms above which many of the children slept, to the State. The State took two acres of property for an on-ramp to the freeway, but my mother was able to keep our family home which she and my father built. Now I must say that because of the death tax, it will now be necessary to sell this property, this home, this family home, just to pay the taxes that are levied upon the family as a result and only as a result of the death of this family member.

Here is another letter. My family has ranched in northern Colorado for 125 years. My sons are the sixth generation to work this land. We want to continue, but the tax of the government is forcing almost all ranchers and many farmers out of business. The problem is called the death tax.

And again I want to say to my Democratic colleagues, how can you go and look at these families and justify the continuation of a death tax? How can you dare vote against the elimination of this tax? I just do not understand it. Are we so surrounded here in Washington, D.C. that some of my colleagues cannot see what is happening to the American family, the middle income family, the small business out there because of a tax on property that has already been taxed?

Do you not understand what a death tax does to these people? This should be a country that encourages generation after generation to continue the family foundation of running the business, whether it be a music store, whether it be a farm or a ranch. But believe it or not, some of my colleagues here continue to support taxing people upon the death of a member of their family, only triggered by the event of that death on property that has been taxed again and again.

People say you get awful excited when you talk about this issue, but I have seen what the devastation is to my constituents as a result of action taken out of this House many, many years ago. And even though it was initiated many years ago, it has continued because some Members do not have enough guts to stand up and vote it down.

We do not live in a world of socialism. We do not live in a world where class warfare ought to be instituted. We do not live in a world where we say to a family operation, you have been able to keep this land and now because the mother or father has died, we are going to redistribute the land. That is fundamentally unfair. Nobody is saying that someone should not carry their fair share. These people have carried their fair share, and I challenge any of my colleagues on the Democratic side that voted to continue the death tax, I

challenge them to come out to Colorado, come out to a mountain family. And by the way, they will not let you go out of their house without you eating dinner, despite how you vote on this issue, but you look that family in the eye and tell them why you support putting a tax on their family when one of the members of their family dies on property that they have already paid the taxes upon.

□ 2245

It is not right. There is no way that you can justify the death tax. There is no way that the Gates family can justify supporting the death tax, other than the fact that they have a foundation that gets them around it. It is the same thing with some of these other very wealthy families that have come out in support of this death tax. Why? Because they have hired the lawyers. As I said, the Gates interview was being done out of the family foundation office. That foundation was built for the sole purpose of avoiding the death tax.

I worry about middle America. Get out to the heartland of America and tell me, especially my Democratic colleagues, I do not know what it takes to get them to realize how punishing this tax is. Go out to the heartland and talk to these people and see what you are doing to the families by simply casting a ''yes'' vote on this House floor to continue to tax people.

Let me show you. Here is what is going on. This is what the heartland of America looks like, just like that. It is family. Families have got to have something to eat. They have got to have a way to subsist. That is the way it is in my part of the country. Again, I live in the high mountains. We have a lot of agriculture out there. We do not have a lot of corporate agriculture. We may have families that incorporate for tax purposes but we do not have the Monsanto Copper Corporation. These are families that run these farms and ranches. The people that supply the wagons and supply the tractors, those are family-run small businesses. This death tax will destroy them. It threatens the American way of life. That is exactly what this death tax does. I cannot think of a better demonstration of what happens, and I want to show this picture to you. This is exactly what you are driving. I know that the more liberal side of the Democratic Party that supports the death tax, many of you also pat yourselves on the back, although I am not sure you are fully deserving of it, you still pat yourself on the back for being strong on the environment. We all need to be strong on the environment, but you take particular pride, the minority leader and some of the more liberal Members, the people of you that have voted to keep this death tax in place, you take particular pride in your record on protecting the environment. Let me show you what happens to the environment when you force these family farms to sell, when you force them out of business, because of this death tax that is what it looks like over here on the bottom. That is what it looks like before the death tax.

What is behind those cattle? Those are condominiums. This used to be open space. Look between the cattle and the trees on the mountain. What is between them? It is condominiums. That is exactly what your ''yes'' vote to continue to have a death tax, that is exactly what your vote has done. This land right here has to be sold to pay the death tax on this property, although all of the property had already paid its taxes year after year after year. Again, we are not talking about someone or some family that has not paid their taxes. We are talking about a family who has paid their taxes but the bureaucracy has not had enough of it. Frankly, and again I am not trying to be partisan, but let us call an apple an apple. The reality of it is the liberal wing back here, the left side, continually says, look, they have too much, this farm family that owns this land, they have too much. Let us approach it from a holistic point of view. Let us take it from them and give it to them. That is exactly what the death tax is envisioned to do, and it is wrong and you are hurting America. You are not only hurting the future of American families that want to continue small business or small farms or small ranches from one generation to the next, you are hurting the environment of America because just as this poster demonstrates, and look at it again, what used to be open space, what used to be open pasture, what used to be an unfettered view to the mountain is now a destroyed view because you have got condominiums right there being built to pay the death tax on that piece of property. Tell me where the equity in that is.

Let me read this:

My family has been on the ranch for 125 years. My sons are the sixth generation to work on this land. We want to continue, but the death tax is forcing almost all ranchers and farmers out of business. The demand for our land is very high and 35-acre ranchettes are selling in this area for a very high price. We want to keep our land as open space. We want to keep it as a ranch. But the government through its policy of death taxes is making it impossible for us because of what we will have to pay once a death event occurs. Ranchers are barely scraping by these days, anyway. If we were willing to develop home sites, we could stop worrying about the death tax but we want to save the ranch. And because we want to save the ranch and as a direct result of the death tax, we are in trouble. The family has been able to scrape up the estate taxes as each generation up to now dies, but I am telling you the time is out. I think we are done for. Our only other option is to give the ranch to a nonprofit organization. And they all want it but none of them will guarantee that they won't develop at least a part of it.

My dad is 90. We don't have much time to decide what to do. We are only one of two or three ranchers left around here. Most of the ranches have been subdivided. One of the last to go was a family that had been there as long as ours. When the old folks died, the kids borrowed money to pay taxes. Soon they had to start selling cattle to pay the interest. When they ran out of cattle, their ranch was foreclosed and is now being developed. That family which used to be a strong family, that had a gorgeous ranch, that survived generations and generations, that family now lives in a trailer near town and the father works as a highway flag man.

You can trace it all back to the votes that started on this House floor. You can trace it back to the most unjustified tax in our tax system. I do not care how you say it. I do not care how pretty my Democratic colleagues want to paint the picture. The fact is they need to come around and they need to join the Republicans and we need to eliminate the death tax on a permanent basis. You cannot justify it. In this upcoming presidential election, I think a litmus test that ought to be asked of every Democrat presidential candidate is, will you support total elimination of the death tax on America? My guess is that they will not look you in the eye, but my guess is none of them will do that. When you hear people and I say this to my colleagues, when you hear people out there talking in a very courageous tone about, look, I've made a lot of money and I think we should keep the death tax, take a look at what they have done, like the Gates, for example. They have put it into a foundation. Why? For the sole purpose to avoid the death taxes. That is why those foundations are created. I have a lot of respect for the Gates family. I am in awe of what they have done to make that. It has been an American dream. But the reality of it is they should not be considered an authority to speak on the death tax when in fact they have created a foundation in which to shelter that money. The better people to go and get an opinion from is, what I say, go out into the heartland of America. Go to Kansas. Go up into the Rockies and stop at some ranch house. Go in there and talk with those people. First of all, you are going to find that they are going to invite you in, they are going to feed you something. Ask them what the death tax will do to their family. Ask them how. Or better yet, to my liberal colleagues, you tell them how you can justify putting a death tax on a family. The fact is you cannot justify it. The fact is this tax is not justifiable from any economic argument. It certainly is not justifiable from a moral point of view. The only way that you could possibly justify a death tax is if you were a socialist and you believed in the concept that whatever is somebody's property ought to be everybody's property,

that it ought to all go for the common good, that everything ought to be thrown into one pot and everybody shares equally. If you believe in the socialistic type of government, then you can justify a death tax. But if you believe in the democratic, capitalistic process which has made this country, by the way, the greatest country in the history of the world, there is no way under any circumstances that you could justify this tax.

As I said earlier, last week we voted, it is over on the other side now, we voted for permanent elimination of that tax, of that death tax. Unfortunately, most of the Democrats once again have chosen to support and to continue the death tax.

It is time for the American public, Mr. Speaker, to understand why there is a difference between Republicans and Democrats. There is one issue I feel very deeply about in my heart that separates our two parties. Granted, about 40 of the more conservative Democrats did vote to eliminate the death tax and for that they deserve credit. But when I am out there, I do not feel like I am getting in a partisan argument, I do not feel like I am taking any cheap spots when I point out that the death tax is primarily supported by the Democrats and the elimination of the death tax is driven by the Republicans. When you go out to the heartland of America, when you go out there into that countryside some time, see if you have got enough guts to look that farm family in the face and say to them, it is because of you that the next generation in that family will in all likelihood not be able to continue the farming or ranching operation.

I urge my colleagues and I urge especially my Democratic colleagues, it is time for you to surrender this issue, because it is the right thing to do. It is time for you Democrats to step up to the plate and support the American farmer and the American rancher and the American small business. The best way that you can do that is to vote to eliminate the death tax. Give these families, give these farms, give these small businesses, give these ranches an opportunity to go to the next generation. We all benefit. Our communities benefit. Our environment benefits. Push the socialistic temptation aside and adopt, rather, what I call the fairness doctrine. It is very simple, just be fair. If you could just be fair in your assessment of this horrible tax, you too next time will join the Republicans and vote against the continuation of the death tax.

IRAQ AND WEAPONS OF MASS DESTRUCTION

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under the Speaker's announced policy of January 7, 2003, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 60 minutes.

Mr. HOEFFEL. Mr. Speaker, I appreciate the opportunity to address the House with a number of my colleagues who will be joining me later, notably the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Hawaii (Mr. ABERCROMBIE), to talk about Iraq.

Mr. Speaker, we have had a great military victory in Iraq. Our young men and women performed with great courage and great effectiveness. We are all very proud of our military and the fact that the threat of the Saddam Hussein regime is no longer present to threaten regional and world peace. But we have two questions that we believe need to be addressed: First, is our military mission complete in Iraq? Secondly, having won the military victory, are we winning the peace?

Regarding the military mission, I would suggest to the House that our mission is not complete without a full accounting of the weapons of mass destruction. There is no question that the primary purpose for invading Iraq put forward by the administration last year and accepted by a majority of the Members of Congress, myself included, was for the purpose of disarming Saddam Hussein of weapons of mass destruction. There is no question that Hussein had such weapons in the past. The international United Nations inspectors were finding them in the mid and late 1990s. Hussein used weapons of mass destruction, notably chemical weapons, against his own citizens with devastating and brutal effects. No one has dreamt up or made up the motion that Hussein had in the past weapons of mass destruction. There is no doubt that he did. But we cannot find them now. We do not know where they are. Perhaps they are buried in the desert and we will find them next week. I hope that is the case. Perhaps he gave them to some other group or some other country. Perhaps he destroyed them. We do not know what happened, but many of us in the House believe that we must have a full accounting of what happened to the weapons of mass destruction before our military mission is complete, for two basic reasons. First off, we need to know where they are. If they are not in Iraq and have been given or taken someplace else, we need to secure them, to dismantle them. We need to know who has the custody of them.

□ 2300

If they are in Iraq, we have to find them. We have to make sure that the coalition forces gain custody of those weapons of mass destruction and not another group that might use them for evil purposes. If these weapons have been destroyed, all for the better; but we need to know why our intelligence did not know that fact. We frankly need to know what happened to them so that we could be sure that the world has been rid of that particular group of weapons of mass destruction and that, if they do exist, they are in safe custody.

The second reason that we need a full accounting of the weapons of mass destruction is to determine what has happened regarding our intelligence and the political use of that intelligence by the Bush administration in the arguments to support war in Iraq. There is no question that the Bush administration and the leading senior advisors to the President stated with complete certainty in the fall of 2002 that Saddam Hussein had weapons of mass destruction, was developing more weapons of mass destruction, and posed an imminent threat to the region and, in fact, to the world. In private briefings and in public statements, the President of the United States and his senior advisors assured Members of Congress and the American people that the weapons of mass destruction existed, that they were being developed in even greater numbers, and that they posed an imminent threat. And many of us, myself included, based our vote in favor of military action against Iraq for the primary purpose of disarming Saddam Hussein of weapons of mass destruction. Now we cannot find them.

More troubling, now stories are appearing in the press and intelligence analysts are stepping forward, only on the record if they have retired, off the record if they still are at work for the United States, saying, in fact, they were not giving such certain advice to the White House in the fall of 2002, that they were saying we cannot be sure what kinds of weapons of mass destruction Saddam Hussein had in the fall of 2002.

On September 26, 2002, the President made a speech in the Rose Garden stating with great certainty that Saddam Hussein had chemical and biological weapons of mass destruction and was developing additional chemical and biological weapons of mass destruction, and yet at the same time it now has become public. The Defense Intelligence Agency in September, 2002, was circulating a report through the White House in the highest levels of the administration saying ''there was no credible evidence that Saddam Hussein currently had weapons of mass destruction or was developing more weapons of mass destruction.'' There was some evidence, but no credible evidence that that was a certainty. And that lack of certainty did not make its way into the public and private arguments made by the administration. So many of us feel that the Bush administration has a growing credibility gap regarding the weapons of mass destruction.

Why does this matter? It matters greatly for the President's new doctrine of preemption, of the preemptive use of military power to stop an enemy. I do believe in an age of terror when we are dealing with adversaries that do not always come from another country who do not always have a capital city to defend or a homeland to defend when we are dealing with terrorists who are not only faceless but stateless that it may be necessary to take preemptive military action if we are faced with an imminent threat to

this country. But that presupposes that we have accurate intelligence. It is one thing to respond to an attack against us. That is the way America has always gone to war once we have been attacked, and it is easy, of course, in the traditional sense of warfare to see an armada massing in the bay or an army building on our borders to know that an attack is imminent.

In an age of terror, we will not always have that warning; so preemptive action may be wise and necessary in the future, but we must have accurate intelligence. We must be able to depend upon that intelligence. We must be able to depend upon the intelligence analysts bringing the information forward in a timely fashion, giving their best advice to the President and the White House, and then we have to depend upon the President and the White House using that information appropriately and wisely, using it to inform Congress and the American people, not to mislead Congress and the American people.

We do not know at this point what exactly happened regarding our intelligence. We do not know whether it was misused by anyone intentionally or unintentionally. We do not know whether the White House heard what it wanted to hear in these intelligence briefings. We do not know whether the intelligence briefings told the White House what the briefers thought the White House wanted to hear, nor do we know whether Congress was told what people only wanted us to know or perhaps what they thought they wanted us to know.

But these questions have to be answered because it goes to the very root of our democratic system, our checks and balances, the proper relationship between the executive and the legislative branches and whether or not we can have faith in the accuracy of our national intelligence agencies and in the proper use of that intelligence.

Before I go any further, we have been joined by the gentleman from Massachusetts (Mr. DELAHUNT), a senior member of the House Committee on International Relations and an eloquent spokesman on foreign policy and national security, my good friend; and I yield to him.

Mr. DELAHUNT. Mr. Speaker, I want to thank the gentleman from Pennsylvania (Mr. HOEFFEL) for again coming to the floor of this House to raise this issue to the American people because clearly our credibility is at risk; and as time passes, there is a growing crescendo of constituents of mine, of his, and of others of our colleagues inquiring as to what occurred in this particular case.

I think what I find particularly disturbing is that in the State of the Union Address by the President back on January 28, he referred to an African nation. That nation, it was subsequently revealed, is the nation of Niger and that there had been a series of letters exchanged between officials of that nation and the Saddam Hussein regime in Iraq relative to the desire of Saddam Hussein to purchase highly enriched uranium from that nation; and that was referenced in the State of the Union Address, as I indicated, by the President of the United States. In fact, it was one of the core ingredients in terms of the Administration's presentation to the American people for its rationale in launching military intervention into Iraq.

Now subsequently it has been revealed that that information was false and that those documents that were relied on by the President, by the White House were, in fact, false. They were forgeries. And that was known to our intelligence agencies, specifically the CIA. Now there appears to be disagreement between the CIA and the Administration as to the information that was brought to the White House by the CIA.

Mr. HOEFFEL. Mr. Speaker, is the gentleman aware that according to reports, the CIA informed the White House of the lack of accuracy of these reports in March of 2002, a full 10 months before the President's State of the Union Address this past January?

□ 2310

Mr. DELAHUNT. Yes, I am aware of that, and I am also aware of newspaper reports that indicated that there was nothing special, according to the National Security Adviser, about this particular information, and that they just simply did not inquire any further from the CIA as to the reliability of that particular information.

But what I find disturbing, I say to the gentleman, is that a week from that date, the Secretary of State, Colin Powell, presented the administration's case before the United Nations Security Council. And according, again, to newspaper reports, that information was omitted by the Secretary of State because he felt that that information was inaccurate.

Now, something is wrong. If, in the space of 7 days, through a vetting process at the Department of State by Secretary Powell, he made the decision to remove that key piece of evidence from his presentation to the Security Council, then something is remiss, something very, very serious.

Now, I know that the gentleman supported the resolution. I happened to vote against that resolution. We all had our own reasons. But even those who disagree on the issue as to whether there should have been military intervention in Iraq have an obligation, I would submit, to conduct a full and thorough review of what occurred and why this particular intelligence was referred to by the President of the United States as he addressed the American people, and clearly influenced the American people. And I would hope, and we understand that our intelligence committees on both the House and the Senate side, are conducting an investigation because of the concerns not only with this piece of information, but other pieces of information that were relied on or alluded to that supported the claim of the administration as to the intent and the position of weapons of mass destruction by Saddam Hussein.

But I would respectfully suggest that that is inadequate. I think we have to be candid that this is a political institution, the American people are represented by two major political parties, and I dare say that if there is disagreement within the intelligence committees of the House and the Senate, and if that disagreement should break along party lines, there will be accusations that the Republicans were stonewalling, or that the Democrats were seeking political advantage in an effort to embarrass the President. And I do not think the American people deserve that. I genuinely believe that this is a nonpartisan issue. This is an issue about America. This is an issue about democracy. This is an issue that has, I would suggest, consequences far into the future about America's image in the rest of the world.

I would hope that this body and that the President would consider convening an independent commission; take the politics out of this so there will not be any finger-pointing, and bring people on board that have reputations for probity, for integrity, and are eminently qualified to address these issues. We should take it away from this body, take it away from the Senate, so that it is not about politics.

Mr. Speaker, we have already had that experience. The Hart-Rudman Commission that none of us really knew about or thought about or gave special attention to until September 12, the day after. Because that particular commission was comprised of eminent Americans from different fields, all highly regarded, people whose integrity are not in question; people who had no political ax to grind, who did this country a great service and produced a document that predicted, that predicted September 11. They warned that the United States was at risk. That particular document was filed on February 25 of 2001. And tragically, tragically, it sat on a shelf and no one paid any attention to it. Mr. Speaker, I would think that given the work of that particular commission, some of those people might very well agree to serve their country again. Because we have this, as the gentleman describes it, growing credibility gap.

It is important to note that the CIA, again, according to newspaper reports, is in serious disagreement with the White House and the President. According to a Washington Post article that appeared on June 12, the story quoted a senior CIA analyst that this case, and it is referring to the evidence developed regarding the alleged, the alleged purchase of uranium from the country of Niger that proved to be false, a senior CIA analyst said that this case, and I am quoting his words

now, ''This case is indicative of larger problems involving the intelligence about Iraq's alleged chemical, biological, and nuclear weapons and its links to al Qaeda,'' which the administration cited, as we well know, as justification for war. Information not consistent, and this is a senior Central Intelligence Agency analyst who said this: ''Information not consistent with the administration's agenda was discarded, and information that was consistent was not, was not seriously scrutinized.''

We do not know what the proof is, and that is our obligation. That is why we are here. We have a responsibility to seek the truth, to answer questions. Not for political gain, not to embarrass anyone, but to reassure the American people that the integrity and the professionalism of their intelligence services is not questioned.

Mr. HOEFFEL. Mr. Speaker, let me ask the gentleman a question along this line of the growing credibility gap. I am sure the gentleman has heard about the two supposedly mobile labs that have been found in Iraq after the conflict. I wonder if the gentleman saw the news today about what appears to have been their actual use.

Mr. DELAHUNT. No, I have not, but I am eagerly awaiting to learn.

Mr. HOEFFEL. Mr. Speaker, the latest is that reports are now circulating that instead of being used for biological or chemical laboratories, these two trucks were used to make hydrogen for the purpose of filling up the Iraqi weather balloons needed by Iraqi artillery and used by all artilleries to gauge wind and currents and so forth to make their artillery shooting accurate. It appears that the loose canvas covering on these trucks would not be conducive to their use as chemical or biological laboratories and that the equipment there is probably designed for hydrogen production.

Mr. DELAHUNT. Mr. Speaker, if the gentleman would yield, I think it is important for us to be very clear and state that just recently, and I believe it was in Philadelphia, a city with which the gentleman is familiar, the President, once more, stated unequivocally that they will find the weapons of mass destruction. So I will accept the word of the President of the United States.

But this goes beyond just that question, because it is clear that up to this point in time, there have been no discoveries about weapons of mass destruction. It just has not happened.

But this is about integrity. This is about whether information was used in a way so that the American people were misled, or this was information that was given to the President of the United States, that was inaccurate and led him to come to the floor of this House, deliver the State of the Union address to the American people, and tell something and suggest to them something that in fact had not happened.

So again, I would hope that we would get the politics out of this process and seek to establish an independent commission, one of prominent Americans, that would take up this burden, and it is a burden, because it would be again calling on them to serve their country as they did so well when they told us: beware, America is at risk of an attack, a serious attack, that could cause a substantial loss of life by terrorists and no one was listening.

□ 2320

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman for his comments and particularly for his suggestion. I think it is a very good one.

There is no doubt that we need an independent and nonpolitical review of the performance of our intelligence agencies and the use to which that intelligence was put. And I think an independent commission such as the gentleman describes is an excellent idea and one that I would certainly support.

We have been joined by our colleague, the gentleman from Hawaii (Mr. ABERCROMBIE), who was a passionate advocate on matters of national security and foreign policy; and I am happy to yield such time to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman very much.

In conjunction with the comments that the gentleman and the gentleman from Massachusetts (Mr. DELAHUNT) have been making, I want to preface my remarks with the observation that part of the complaint that is being made across the country with respect to this attack on Iraq and the subsequent war which is now unfolding is that where are people speaking out on it?

Well, we are here on Special Orders tonight. I think those who are observing our deliberations here on C–SPAN understand that the House is not formally meeting right now. I would think, I want to make it clear to those folks who are observing and listening to our deliberations here this evening, that we do not have the opportunity during the work day to be able to speak at length and in depth on this issue and the issues surrounding the attack on Iraq. We have the opportunities to ask questions and perhaps a followup or two in committee hearings, when we are able to get them, with respect to the defense budget or as we dealt with just recently having witnesses from the Department of Defense. Those are rather formal occasions, as they should be. Presentation is made by the Department of Defense or by the requisite executive agency, and so occasionally a dialogue back and forth.

If C–SPAN is not there, for all intents and purposes, it does not exist. When we go home to our districts and they say, where are the people who are opposed to this or have differing views or want to establish a different perspective, it is important to understand that the mass media in this country is owned by a small number of conglomerate interests, many of whom are associated with the kind of thing that is taking place just today.

I refer you to the Los Angeles Times, Monday, June 23, the business section: California firms lining up to capitalize on rebuilding of Iraq. Hundreds of millions if not billions of dollars involved in this opportunity. If you think for a moment that the national media is going to be covering the Special Orders, do you think we are going to appear even on ''Nightline,'' which is probably the most objective and the most far-reaching of those who want to get the news out, I think we are dreaming.

Now, I look up right now and the galleries are right in front of us. For those of you who are across the country who are observing us and listening to us tonight, the galleries are empty. I suppose the news organizations might have to pay overtime, I am not sure, but there are no reporters volunteering their time because they are interested in what it is that we have to say.

Now, I have come back from a trip with a congressional delegation, the first congressional delegation to get into Iraq, to go to Bagdad, to go to Kirkuk in the north, a bipartisan delegation; and I am referring to the gentleman from Pennsylvania's (Mr. HOEFFEL) admonition and to the gentleman from Massachusetts' (Mr. DELAHUNT) suggestion about an independent commission to examine these issues, a nonpolitical review, if I remember what you said.

Mr. DELAHUNT. If my friend from Hawaii would yield, I think again one cannot overemphasize the need for the information to get out to the American people because it is important to know that the investigations that will be conducted in this House by the Permanent Select Committee on Intelligence in the other body will be conducted behind closed doors, and what we are looking for is to take the politics out of it.

Now, I hear some say that Democrats are raising these issues to embarrass the President. No one can gauge our sincerity, but I know that the gentleman from Pennsylvania (Mr. HOEFFEL) and many of us on both sides of the aisle, by the way, Republicans and Democrats, want a situation that does not lead to a political competition.

Here I just ran across a report from The New York Times dated June 18. And let me again quote: ''Despite growing questions about whether the White House exaggerated the evidence about Saddam Hussein's chemical and biological weapons, President Bush and his aids believe that the relief that Americans feel about Mr. Hussein's fall in Iraq will overwhelm any questions about the case the administration built against him. Administration officials and Republican strategists say, 'I think we can ride this out,' said an official.''

This is not a question of riding something out. This is a question of righting a wrong. A wrong, wherever the responsibility should fall, let the American people in an appropriate forum listen to the questions, listen to the evidence and form their own judgments. This is not about politics.

I do not know if either one of the gentleman had the opportunity to see the British Parliament in its inquiry into these issues. I found it extraordinary. It was carried on BBC. It was televised during the day. It received national attention there. And two former ministers of the Blair government who had resigned because they did not believe that the intelligence was accurate and was sufficient, they testified as to their observations. It was civil. It was respectful. It was a debate that I know has informed the British people.

□ 2330

We need that to happen here, but given the realities of our own political system, I think it is best if the President, the leadership of both branches, agree for an independent commission to have public hearings that are transparent, much like the Blair government has conducted in the United Kingdom.

Naturally, we are not going to expose sources, but I would like to know, for example, what happened between January 28 and February 5. On January 28, the President of the United States in his State of the Union address made this assertion, and on February 5, according to newspaper reports, the Secretary of State Colin Powell had that particular piece of evidence removed from his presentation to the United Nations Security Council. What happened during those 7 days?

The American people should have an answer.

Mr. ABERCROMBIE. Mr. Speaker, I think that that is what fits into the premise that I am establishing here, that we need to have the press in that gallery paying attention to what is going on here on the floor because this is the only place right now that such a commission is going to take place.

If someone wants to attribute partisan motives to what we are saying down here, they are going to do that anyway. I have to trust, as we all have to trust, that the people will make a decision as to whether what we are saying, why we are saying it, how we are saying it, where we are going, makes sense to them or not on the basis of ideology alone, as opposed to trying to get at what the truth of the situation is with respect to the national security interests of this Nation.

Mr. DELAHUNT. Mr. Speaker, I think what the American people have to understand is that we are not making allegations. We are not making assertions. We are asking for a process that will reassure the American people.

Others are making allegations, others like a gentleman who recently retired after 25 years in the State Department, the last four of which were in the Bureau of Intelligence, and his name is Greg Fieldman, 25-year veteran, and this is what he said, and I do not know what his political affiliation is. He could be a Republican for all I know. The al Qaeda connection and the nuclear weapons issues were the only ones that you could link Iraq to an imminent security threat to the United States, and the administration was grossly distorting the intelligence on both items.

That is his words. That is not my colleague's words, the gentleman from Pennsylvania's (Mr. HOEFFEL) words or my words or Democrat words in a partisan context. I want to hear from him, and the American people have a right to hear from him, and I am sure my colleagues on the other side of the aisle would expect to hear from him, also. I would hope that this idea is seriously considered by both sides.

Mr. ABERCROMBIE. Mr. Speaker, on that point, or on these series of points that are being made, for all intents and purposes, the only opportunity that the American people are going to have to have these questions explicated is on this floor during special orders, and I want to indicate, and I believe the three of us are agreed upon this, we are going to be back. Arnold Schwarzenegger is not the only one that is going to be back.

We are going to be back here on this floor. We are going to be asking the questions. We are going to be making the observations. We are going to be putting forward for the American people the opportunity to hear a perspective that is not necessarily or likely to be enunciated in the press, most particularly in the controlled press. We are not going to see this on the evening news. We are not going to see this in the so-called Sunday talk shows. They have the usual suspects on generally when that comes about.

So what I want to do this evening by way of establishing some of the premise is refer back again to the congressional delegation that we made May 23 through the 27 under the chairmanship of the gentleman from California (Mr. HUNTER), my good friend, our good friend, our able chairman, someone dedicated to the defense of this country by any standard of measure.

Of course, there are differences of opinion that we have in the Committee on Armed Services on which I am happy to be serving as to what the policies might or might not be with respect to the defense of the strategic interests of this Nation, but there is no difference between us on either our desire or our capabilities or our abilities to try to discern what the best course might be. That is precisely why we went. We did not go there to try and get into a contest with anybody on an ideological basis or party basis but rather to try to find out what was taking place.

Maybe tonight will be the first time people will be able to hear anything about what was known as the Organization for Reconstruction and Humanitarian Assistance, which has now become the Coalition Provisional Authority. These are important because we started out one way with a former general, Jay Garner, who has now been removed all of the sudden within almost days, weeks, in terms of workdays, just days, has been removed, and why? Not because General Garner was thought to be a bad person or an inadequate administrator or did not have the proper motivation or understanding, but because the mission to which he had been assigned and the mission which he expected to carry out, namely, a reconstruction effort, somewhat perhaps akin to the aftermath of a natural disaster, a dam bursting or a hurricane or typhoon or something of that nature, turned out to be a typhoon of entirely a different kind, namely, that there was chaos; that there was an inability to provide even the most elemental of protection for those who would be doing the reconstruction; that there was not an understanding and foundation in the population in which this reconstruction was supposed to take place that this was a mutually agreed-upon activity.

There were forces in the street that were, in fact, trying already to get the United States out of Iraq, and therefore, we had to have the intervention of a very competent and highly professional diplomat, Mr. Bremer, Mr. Paul Bremer, who came in and assumed the authority over what has become the Coalition Provisional Authority. What did he propose?

When we went to Baghdad to talk with him, he had put together what I called an outline. Some people would call this a plan, but I think Mr. Bremer is an honest and forthright person. I was very impressed with his desire to speak directly to us on the questions that we posed and the observations that we made. He did not try to finesse anything. He did not try to make anything into something other than what he thought it was. He gave that clear impression, and I think that was agreed upon by all Members there, Democrats and Republicans, who were there.

He came up with what could best be characterized as an outline, not a plan. A plan is something that we know how to implement, we know who is going to implement it, we know where it is going to be done. We did not know any of these things. We still do not know these things. We are making it up as we go along. This is not an accusation, as the gentleman indicates, against Mr. Bremer. On the contrary he is trying to put something together that was not planned for.

This is one of the key elements that we have to think about here when we are talking about we can have authority as General Shinseki said when he retired as Army Chief of Staff on June

11, you can be assigned command authority but you have to earn leadership.

The question here that has to be answered by the President, by the Department of Defense, by Mr. Rumsfeld and others is, are they really exercising the kind of leadership that we need in these circumstances? We cannot equate a political policy with patriotism. If you are trying to tell me, and this is where I draw the line here, if you are trying to tell me that I have to agree with somebody else's political policy or have my patriotism questioned or have my capacity to understand what the strategic interests of this Nation are, then you have crossed over the line, and what you are saying in effect is do not examine closely, do not analyze to any great degree the policies that I am putting forward because if you do then I will equate that with somehow being antipatriotic or against our troops.

If we are putting the lives of young men and women and the United States Armed Forces on the line, then we have to have policies that are worthy of the commitment and dedication and professionalism of those young people.

I got into electoral politics because we failed to do that in the Vietnam War because we decided then that we would equate military activity with political policy, and the military activity became the political policy. That is why we got to body counts in Vietnam to try and justify our insistence on being there militarily, and so we have to account for the key tasks to be completed here in the context of does this advance the interests of the United States at this juncture, pending some further inquiry as to how we got there in the first place.

□ 2340

And I will tell you that while these, in and of themselves, these 10 points of Ambassador Bremer to be completed, are worthy in and of themselves, they do not answer the question about what will be the role of the United States over the next 5 to 10 years, at least a decade.

And this is where General Shinseki's words become ringing in terms of his retirement and what he said at that retirement about command authority and earning leadership capacity. He said that there should be no confusion about the argument over what the military should be doing or not doing in this country and what its role is going to be in the post-attack phase in the context of the guerilla war that is now underway in Iraq. There should be no confusion as to the commitment of the United States military to civilian control. To raise these issues as to who was in charge is dysfunctional to the discussion. But he warned us, and these words are going to be prophetic, do not get involved in a 12-division policy with a 10-division army.

And what he was saying here is, were we adequately prepared ahead of time? Did we do the kind of planning that was necessary in order to accomplish this task? And was that mission that was outlined adequately underlined and a foundation established that would enable us to say with authority that the interests of the United States in terms of its strategic position in the world and whether or not we were facing imminent danger was in fact at stake? Absent that, then we are in for serious trouble. Because that means we will be engaged in essentially an ad hoc operation perhaps for over a decade to come in Iraq, and we will pay a fearful price for that in the lives and bloodshed of our American military and upon the taxpayers of this country and upon the credibility of the United States with regard to world opinion.

Mr. HOEFFEL. Mr. Speaker, if the gentleman would yield, his comments about Vietnam, I think, are very telling and warrant some consideration. One of my great concerns before the military involvement in Iraq started was not whether we would win that military confrontation. That was never in doubt. But how we would act afterwards and would we be perceived in perception or reality as a colonial power, an occupying power, or one that was there to liberate and help Iraqis gain control of their own lives.

Now, I have noticed that the United States asked the United Nations to name us and the British occupying powers, using that phrase in the U.N. resolution of a week or two ago, occupying powers, which seems to me to be sending the wrong signal to the rest of the world about what our role in Iraq should be. And the gentleman's comments about Vietnam, what I most recall about our quagmire in Vietnam was how poorly our Presidents explained the Vietnam policy to the American people.

Mr. ABERCROMBIE. Whether they were Democrat or Republican.

Mr. HOEFFEL. Absolutely right. And the great failing I see now is the inability of the current President to explain the costs, the challenges, and the time lines facing us as occupying powers, if you will, in Iraq.

The gentleman was there. I would be fascinated to hear his response based upon his firsthand observation.

Mr. ABERCROMBIE. Well, Mr. Speaker, if the gentleman will yield to me on that point, Ambassador Bremer was very, very direct in his characterization of us being an occupying power. And this was not said with any kind of bravado. It was simply an announcement of the realities that were involved and what his obligations were and what his responsibilities were in Iraq as the director of the coalition provisional authority.

And we ought to get something straight here about this. When we say coalition, we are talking about the United States of America. That is who is in charge here. When the Americans show up, then people mean business. I remember that from the Balkan situation before. And just by way of disclosure, on that I opposed President Clinton on that. So again I point out this has nothing to do with Democrats and Republicans, whether they are in the Presidency or not. This has to do with credibility in terms of whether or not the national interests are involved and to what degree they are involved. As a result, I think that we need to understand very clearly what Ambassador Bremer's dilemma is and what is he to do at this stage when contemplating how to advance civil society.

Now let us talk about the practical consequences of this. There is a reason that young men and women are being killed or wounded almost daily in Iraq today. We have no civil authority in place. When those who criticize those of us who were aware of this attack taking place under the terms and conditions and time that it took place, when they complain about, well, are you now ready to admit that you lost; that somehow we won and you thought we were going to lose. As my colleague from Pennsylvania pointed out, I do not know of anyone, certainly not any responsible person in the Congress, and I cannot think of anybody in the Committee on Armed Services that thought for a moment that the United States military would not succeed. We only have to observe them in action, as we have as recently on this trip at the end of May, to see that the professionalism, the capacity, the capabilities of the United States military is unparalleled.

That is not the question. The question is are the politicians and the politics behind the military activity up to the mark. That is what is at stake here. And that is why we have the situation in which these young people are being shot, are being wounded, are being put in harm's way every day. There is no civil authority there. We are trying to stand up a police force.

Does that sound familiar? It should, because we have been trying to do it since the late 1990s in the Balkans; and we are still, despite much more favorable circumstances in, at best, a very tentative dilemma with respect to whether or not with the NATO troops and United States troops leaving that area, whether or not chaos will descend once again. I will assure my colleagues if we leave any time soon, there will be chaos of a nature that the Secretary of Defense calls untidy.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman, and I would yield to my colleague from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, I just wanted to add one observation. The gentleman mentioned the Balkans. What is transpiring today in Afghanistan is close to a disaster, and here again we have young Americans at risk every day. There has been an unfavorable review of what is occurring within Afghanistan. The warlords are still there. The Taliban are reconstituting themselves. The president, who had the support and continues to have the support of the United States, President

Karzai, is fearful of leaving Kabul. Again, progress has not been measured, but rather the lack of progress is obvious; and we have been there 18 months.

Earlier, my colleague referred to General Shinseki. He had the courage to speak his mind. He had the courage to tell the American people. And by the way, I think we all agree, I think there is unanimity among us that Iraq and the world is better off without Saddam Hussein. That is not at issue here. We have had a changing policy in regard to Iraq dating back for years, including, by the way, in the 1980s, when this President's father, George Herbert Walker Bush, took Saddam Hussein off the terrorist list as Vice President in the early 1980s, in conjunction with, and, obviously, under the direction of President Reagan, installed an embassy in Baghdad, supplied agricultural credits in the amounts of billions of dollars to the Iraqis, and were providing intelligence from our military to the Iraqi military in terms of benefiting in their war with Iran.

I think we have to say it, they were fully aware that the Iraqis at that point in time were using chemical weapons. They knew. They knew what was happening in northern Iraq against the Kurds.

□ 2350

Mr. ABERCROMBIE. Mr. Speaker, if the gentleman would yield, that just goes to show that the interests of the United States at that time were deemed to be such that we could have that kind of diplomatic relationships with Saddam Hussein and the government in Iraq. The present Secretary of Defense was part of that, was in Iraq and trying to do business with Saddam Hussein.

The question is what caused that change? Was it really in the interest of the United States in terms of our defense and imminent danger to the United States to attack Iraq? That is a question that needs to be answered because it is going to inform us and instruct us where we are going from here, whether it is Iran, Syria, North Korea, whether it is the kind of policies that are going to come forward on Iraq itself. This is the kind of thing that needs not just an emphasis but needs explanation.

If we are going to have a policy worthy of the legacy of this Nation's triumph of democracy, we cannot simply assert it on behalf of other people, particularly in a place like Iraq which has never known it and whose entire history since World War I has been nothing but a division of the spoils among Western nations.

Mr. Speaker, I simply want to indicate to my colleagues, and I hope that we will have a dialogue in the future, particularly with those who have different views as to where we should be going and what we have accomplished to this point, or what we have failed to accomplish to this point, because it is the only place that the American people are going to get any kind of a dialogue like that. That is what this House is all about. This is the people's House. You cannot appear on this floor except by way of election. You can be appointed to the United States Senate; you cannot be appointed to the House of Representatives. This is the people's House. We come up for election, as my wife says, every other year, not every 2 years. You can have a driver's license longer than you can have a license to be on this floor, and that is as it should be because it was the intention of the Founders of this Nation that the people in this country have the opportunity to decide who will represent them here against the House of Lords on the other side of the building.

I would indicate that I will be coming back to the floor, and I hope to be joined by others because we do not intend to let this issue slide. We do not intend for anybody to get over this or get by it.

Mr. DELAHUNT. Or ride it out. Mr. Speaker, nobody is going to ride it out.

Mr. ABERCROMBIE. Not while we have the opportunity and obligation as Members of the House of Representatives to speak out on behalf of the people of this Nation.

Mr. HOEFFEL. Mr. Speaker, I have been here just 5 years. I have often heard of the gentleman's eloquence and passion, and he has proven it tonight with great glory.

Mr. DELAHUNT. Mr. Speaker, let me just close with an observation. It is my understanding that sometime this week we could very well be considering a proposal for prescription drug benefits. I juxtapose that with a headline that I noticed today, and I guess it must have been in the aftermath of Under Secretary Wolfowitz's testimony before the Committee on Armed Services where it was concluded that there was a probability that a substantial American presence would be required in Iraq for a decade and that the cost to the American people would be $54 billion a year.

I ask my colleagues and those that are watching us to reflect for a moment on the cost to the taxpayers and the reality of the deficit that we are facing far into the future and at the same time the needs of our seniors to have a genuine, significant, prescription drug benefit so they can live their lives with dignity and a sense that they are going to be treated as they should.

Mr. ABERCROMBIE. And that they are not under siege.

Mr. HOEFFEL. Mr. Speaker, the gentleman from Massachusetts (Mr. DELAHUNT) has framed the issue very well. There are many things we need to be talking about regarding the post-conflict situation in Iraq: how to secure it properly because security is a huge issue; and how to bring not just democracy to the people of Iraq but the institutions of democracy, free press, free speech, a noncorrupt judicial system.

The gentleman talks about the need for a full disclosure by the President of the costs of the commitment, the challenges and the time line that we face in Iraq.

As we close tonight, I cannot think of a better request we can make of the President, to tell the American people and the Congress what we will be facing in Iraq. If the people do not know, they will not support it. And if times get tough, and they have been, 17 people have died in Iraq since hostilities have supposedly ended.

Mr. DELAHUNT. The number I understand now is 43 young Americans have died since the end of the formal phase of combat.

Mr. HOEFFEL. It is staggering. We need a full description and a full setting-forth of the challenge by the President. I thank the gentleman from Hawaii (Mr. ABERCROMBIE) and the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. ABERCROMBIE. One closing remark, I do not think the parents and families of the young people who have died make any differentiation between formal and informal. I think those deaths are devastating regardless of the timing associated with it.

CORRECTION TO THE CONGRESSIONAL RECORD OF THURSDAY, JUNE 19, 2003, AT PAGE H5643

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. TERRY. Mr. Speaker, I offer a resolution (H. Res. 284) and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 284

Resolved, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Mr. Neugebauer.

Committee on Resources: Mr. Neugebauer.

Committee on Science: Mr. Neugebauer.

Committee on Small Business: Mr. McCotter.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JEFFERSON (at the request of Ms. PELOSI) for today on account of official business.

Ms. KILPATRICK (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. MENENDEZ (at the request of Ms. PELOSI) for today on account of his son's graduation.

Mr. LUCAS of Oklahoma (at the request of Mr. DELAY) for today on account of official business in his district.

Mr. TOOMEY (at the request of Mr. DELAY) for today on account of official business.

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. LEWIS of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. SCOTT of Georgia, for 5 minutes, today.

Mr. BISHOP of Georgia, for 5 minutes, today.

(The following Members (at the request of Mr. KELLER) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, June 27.

Mr. SIMMONS, for 5 minutes, June 24.

Mr. GUTKNECHT, for 5 minutes, today and June 24, 25, and 26.

Mr. MORAN of Kansas, for 5 minutes, June 24.

Mr. KELLER, for 5 minutes, today.

Mr. CULBERSON, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today and June 24, 25 and 26.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. PENCE, for 5 minutes, June 24.

Mr. FLAKE, for 5 minutes, June 24.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 504. An act to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes; to the Committee on Education and the Workforce.

S. 686. An act to provide assistance for poison prevention and to stabilize the funding of regional poison control centers; to the Committee on Energy and Commerce.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 658. An act to provide for the protection of investors, increase confidence in the capital markets system, and fully implemented the Sarbanes-Oxley Act of 2002 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission.

H.R. 2312. An act to amend the Communication Satellite Act of 1962 to provide for the orderly dilution of the ownership interest in Inmarsat by former signatories to the Inmarsat Operating Agreement.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 342. An act to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act, and for other purposes.

S. 1276. An act to improve the manner in which the Corporation for National and Community Service approves, and records obligations relating to, national service positions.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on June 20, 2003 he presented to the President of the United States, for his approval, the following bills:

H.R. 389. To authorize the use of certain grant funds to establish an information clearinghouse that provides information to increase public access to defibrilation in schools.

H.R. 519. To authorize the Secretary of Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

H.R. 788. To revise the boundary of the Glen Canyon National Recreation Area in the States of Utah and Arizona.

ADJOURNMENT

Mr. HOEFFEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 24, 2003, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2754. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Removal of Cold Treatment Requirement for Ya Pears Imported From Hebei Province in China [Docket No. 02-084-2] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2755. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Exotic Newcastle Disease; Removal of Areas from Quarantine [Docket No. 02-117-8] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2756. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Determination of Residual Free Formaldehyde Content of Biological Products [Docket No. 01-091-2] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2757. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting The Department's final rule — Tuberculosis Testing for Imported Cattle [Docket No. 00-102-2] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2758. A communication from the President of the United States, transmitting a report listing the aggregate number, locations, activities, and lengths of assignments for all temporary and permanent U.S. military and civilians involved in Plan Colombia, pursuant to Public Law 106—246, section 3204 (f) (114 Stat. 577); to the Committee on Armed Services.

2759. A letter from the Acting General Counsel, FEMA, Deparment of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7539] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2760. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7809] received June 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2761. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2762. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2763. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2764. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting The Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7436] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2765. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to Australia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Financial Services.

2766. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Certain Research and Development Companies [Release No. IC-26077; File No. S7-47-02] (RIN: 3235-AI57) received June 17, 2003, pursuant to

5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

2767. A letter from the Director, Office of Management and Budget, transmitting a report on the Cost Estimate For Pay-As-You-Go Calculations, pursuant to Public Law 108—18; to the Committee on the Budget.

2768. A letter from the Director, Office of Management and Budget, transmitting appropriations reports containing OMB cost estimates, pursuant to Public Law 108—11; to the Committee on the Budget.

2769. A letter from the Director, Regulations Policy and Management Staff, FDA, Department of Health and Human services, transmitting the Department's final rule — Amendment of Regulations on Aluminum in Large and Small Volume Parenterals Used in Total Parenteral Nutrition; Delay of Effective Date [Docket No. 02N-0241] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2770. A letter from the Regulations Coordinator, FDA, Department of Health and Human Services, transmitting the Department's final rule — Applications for FDA Approval to Market a New Drug: Patent Submission and Listing Requirements and Application of 30-Month Stays on Approval of Abbreviated New Drug Applications Certifying That a Patent Claiming a Drug Is Invalid or Will Not Be Infringed [Docket No. 02N-0417] (RIN: 0910-AC48) received June 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2771. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plan; Washington [Docket No. WA-70-7148; FRL-7493-8] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2772. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Appoval and Promulgation of Implementation Plans; State of Kansas [KS 179-1179a; FRL-7510-4] received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2773. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Air Pollution From New Motor Vehicles and New Motor Vehicles Engines; Modification of Federal On-board Diagnostic Regulations for: Light-Duty Vehicles, Light-Duty Trucks, Medium Duty Passenger Vehicles, Complete Heavy Duty Vehicles and Engines Intended for Use in Heavy Duty Vehicles weighing 14,000 pounds GVWR or less; Extension of Acceptance of California OBD II Requirements [FRL-7492-6] (RIN: 2060-AJ77) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2774. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Nebraska: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7510-1] received June 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2775. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Revisions to Regulations Requiring Availability of Information for use of On-Board Diagnostic Systems and Emmission-Related Repairs on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks and 2005 and Later Model Year Heavy-Duty Vehicles and Engines Weighing 14,000 Pounds Gross Vehicle Weight or Less [FRL-7509-8] (RIN: 2060-AG13) received June 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2776. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report in accordance with Section 301 of the Diplomatic Security Act, pursuant to 22 U.S.C. 4831; to the Committee on International Relations.

2777. A letter from the Deputy Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule — Global Terrorism Sanctions Regulations — received June 4, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2778. A letter from the Auditor, District of Columbia, transmitting a report entitled ''The Department of Mental Health Failed to Implement a Vocational Rehabilitation Program for the District's Mental Health Consumers,'' pursuant to D.C. Code section 47—117(d); to the Committee on Government Reform.

2779. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the semiannual report on the activities of the Inspector General and management's report for the period ending March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

2780. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

2781. A letter from the Inspector General, Equal Employment Opportunity Commission, transmitting the semiannual report of the Inspector General for the period October 1, 2002 through March 31, 2003, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

2782. A letter from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D —— 2003-2004 Subsistence Taking of Fish and Wildlife Regulations (RIN: 1018-AI62) received June 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2783. A letter from the King of Hawaiian Islands, Kindom of Hawaii, transmitting a report concerning S. 344, and jurisdiction regarding the Native Hawaiian and Na Kanaka Maoli People of Hawaii; to the Committee on Resources.

2784. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Managment Measures; Trip Limit Adjustments [Docket No. 021209300-3048-02 I.D. 052103A] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2785. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Annual Fireworks Events in the Captain of Port Portland Zone [CGD13-03-008] (RIN: 1625-AA00) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2786. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; New York Marine Inspection Zone and Captain of the Port Zone [CGD01-03-060] (RIN: 1625-AA00) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2787. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, New Jersey [COTP PHILADELPHIA 03-005] (RIN: 1625-AA00) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2788. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Vessel Movement Reporting System; Prince Williams Sound, Alaska [CGD17-03-001] (RIN: 1625-AA11) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2789. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Port of Anchorage, Knik Arm, Alaska [COTP Western Alaska 03-001] (RIN: 1625-AA00) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2790. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Corpus Christi — Port Aransas Channel — Tule Lake, Corpus Christi, TX [CGD08-03-021] received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2791. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation: Harvard-Yale Regatta, Thames River, New London, CT [CGD01-03-030] received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2792. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Michigan, Chicago, IL [CGD09-03-212] (RIN: 1625-AA00) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2793. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Protection of Alaska Marine Highway System (AMHS) vessel M/V Kennicott in Western Alaska waters received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2794. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Betsie Bay, Lake Michigan [CGD09-03-213] (RIN: 1625-AA00) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2795. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; San Francisco Bay, California [COTP San Francisco Bay 03-002] (RIN: 1625-AA00) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2796. A letter from the Chief, Regulations and Administrative Law, USCG, Department

of Homeland Security, transmitting the Department's final rule — Security Zone: Portland Rose Festival on Willamette River [CGD13-02-020] (RIN: 1625-AA00 (Formerly RIN: 2115-AA97)) received May 29, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2797. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Cape Cod Canal, MA [CGD01-03-040] received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2798. 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; Severn River, College Creek, and Weems Creek, Annapolis, Maryland [CGD05-03-038] (RIN: 1625-AA08) received May 23, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2799. A communication from the President of the United States, transmitting the Annual Report to the Congress on Foreign Economic Collection and Industrial Espionage; to the Committee on Intelligence (Permanent Select).

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. HYDE: Committee on International Relations. House Resolution 260. Resolution requesting the President to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents or other materials in the President's possession relating to Iraq's weapons of mass destruction, adversely; (Rept. 108–168). Referred to the House Calendar.

Mr. ROGERS of Kentucky: Committee on Appropriations. H.R. 2555. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes (Rept. 108–169). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Revised Suballocation of Budget Allocations for Fiscal Year 2003 (Rept. 108–170). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Florida: Committee on Appropriations. Report on the Suballocation of Budget Allocations for Fiscal Year 2004 (Rept. 108–171). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (Rept. 108–172). Referred to the Committee of the Whole House on the State of the Union.

Mr. KNOLLENBERG: Committee on Appropriations. H.R. 2559. A bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes (Rept. 108–173). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 292. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–174). Referred to the House Calendar.

Mr. LINCOLN DIAZ-BALART of Florida. Committee on Rules. House Resolution 293. Resolution providing for consideration of the bill (H.R. 2555) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes (Rept. 108–175). 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. TOM DAVIS of Virginia (for himself, Mr. BOEHNER, Mr. WELDON of Florida, Mr. LIPINSKI, Mr. SHAYS, Mr. CARTER, Mr. WILSON of South Carolina, Mr. EHLERS, and Mr. DEMINT):

H.R. 2556. A bill to provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary or secondary schools identified for improvement, corrective action, or restructuring under title I of the Elementary and Secondary Education Act of 1965, with expanded opportunities for enrolling their children in higher-performing schools in the District of Columbia, and for other purposes; to the Committee on Government Reform.

By Mr. YOUNG of Alaska (for himself and Mr. DUNCAN):

H.R. 2557. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MCINTYRE:

H.R. 2558. A bill to amend the Water Resources Development Act of 1976 to allow the Secretary of the Army to extend the period during which the Secretary may provide beach nourishment for a water resources development project; to the Committee on Transportation and Infrastructure.

By Mr. MANZULLO:

H.R. 2560. A bill to amend title XVIII of the Social Security Act to clarify the scope of chiropractic services that may be furnished under the Medicare Program and that chiropractors are the only health care professionals qualified under that program to furnish those services; 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. ANDREWS:

H.R. 2561. A bill to provide grants to States to establish, expand, or enhance prekindergarten programs for children who are not yet enrolled in kindergarten; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 2562. A bill to provide financial assistance to law school graduates who choose to accept employment in a public interest position; to the Committee on Education and the Workforce.

By Ms. BERKLEY:

H.R. 2563. A bill to amend the Head Start Act to provide additional funding for States with increased numbers of children eligible for participation in Head Start programs, and for other purposes; to the Committee on Education and the Workforce.

By Mr. CAPUANO (for himself, Mr. DELAHUNT, Mr. NEAL of Massachusetts, Mr. OLVER, Mr. LYNCH, and Mr. MARKEY):

H.R. 2564. A bill to amend the Internal Revenue Code of 1986 to provide that the harbor maintenance tax is applied to certain ports that import cargo exceeding $100,000,000 in value per year; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 2565. A bill to amend section 2119 of title 18, United States Code, to strengthen Federal carjacking law; to the Committee on the Judiciary.

By Mr. KIND (for himself, Mr. GILCHREST, Mr. BLUMENAUER, and Mrs. TAUSCHER):

H.R. 2566. A bill to reform the Army Corps of Engineers; to the Committee on Transportation and Infrastructure.

By Ms. MCCOLLUM (for herself, Mr. EVANS, Mr. OBERSTAR, Mr. RODRIGUEZ, Mr. RYAN of Ohio, Mr. FILNER, Ms. CORRINE BROWN of Florida, Ms. WATERS, Mr. GUTIERREZ, Ms. DELAURO, Mr. STRICKLAND, Mr. SNYDER, and Mr. MICHAUD):

H.R. 2567. A bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, as the ''Paul Wellstone Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

By Mr. OBERSTAR (for himself, Mr. BLUMENAUER, Mr. HOBSON, Mr. LIPINSKI, Ms. NORTON, Mr. PASCRELL, Mr. LAMPSON, Mr. HONDA, Mr. FROST, Mr. SERRANO, Mr. MORAN of Virginia, Mr. SANDERS, Mr. BROWN of Ohio, Ms. WOOLSEY, Mr. DOGGETT, Ms. BALDWIN, Mr. BALLANCE, Mr. CASE, and Mr. SCOTT of Georgia):

H.R. 2568. A bill to amend title 23, United States Code, to establish a transportation and active living program, a safe routes to school program, and a nonmotorized transportation pilot program; to the Committee on Transportation and Infrastructure.

By Mr. EVANS (for himself, Ms. KAPTUR, Mr. HONDA, Ms. MILLENDER-MCDONALD, Ms. LEE, Mr. GRIJALVA, Mr. ABERCROMBIE, Mr. LARSON of Connecticut, Mr. TOWNS, Ms. SCHAKOWSKY, Mr. MCDERMOTT, Mr. LANTOS, Mr. WOLF, Ms. SOLIS, Ms. WATSON, Mr. FRANK of Massachusetts, Mr. SCHIFF, Ms. BORDALLO, Mr. FALEOMAVAEGA, Mr. KUCINICH, Ms. LINDA T. SANCHEZ of California, Mr. DAVIS of Illinois, Mr. LAMPSON, Ms. MCCOLLUM, Mr. CROWLEY, Mr. SANDERS, and Mr. LIPINSKI):

H. Con. Res. 226. Concurrent resolution expressing the sense of Congress that the Government of Japan should formally issue a clear and unambiguous apology for the sexual enslavement of young women during colonial occupation of Asia and World War II, known to the world as ''comfort women'', and for other purposes; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolution as follows:

H.R. 49: Mr. MCINNIS and Mr. OTTER.

H.R. 196: Mr. SPRATT.

H.R. 290: Mr. HOLT, Mr. TAYLOR of Mississippi, Mr. ISRAEL, Mr. KIRK, Mr. SANDLIN, Mr. LYNCH, Mr. THOMPSON of Mississippi, Mr. WAMP, Mr. SCHIFF, Mr. POMBO, Mr. HAYWORTH, Mr. ISAKSON, Mr. BARTLETT of Maryland, Mr. JONES of North Carolina, Mr. PICKERING, Mr. SESSIONS, Mr. LANGEVIN, Mr. FORD, Mr. WEINER, Mr. BOEHLERT, Mrs. JO

ANN DAVIS of Virginia, Ms. ESHOO, Mr. MCDERMOTT, Ms. SLAUGHTER, Mr. PLATTS, Mr. LEWIS of Georgia, and Ms. JACKSON-LEE of Texas.

H.R. 300: Mr. BURTON of Indiana.

H.R. 303: Mr. TOM DAVIS of Virginia and Mr. GEPHARDT.

H.R. 328: Mrs. NORTHUP, Mr. FILNER, Ms. GRANGER, Mrs. MCCARTHY of New York, and Mr. MORAN of Virginia.

H.R. 339: Mr. HERGER.

H.R. 369: Ms. KAPTUR.

H.R. 401: Mrs. MALONEY and Mr. LEWIS of Georgia.

H.R. 466: Mr. WYNN.

H.R. 487: Mr. ROHRABACHER.

H.R. 531: Mr. UDALL of New Mexico, Mr. DEAL of Georgia, Mr. CLAY, Mr. CHOCOLA, and Ms. LINDA T. SANCHEZ of California.

H.R. 548: Mr. FLETCHER, Ms. ESHOO, and Mr. COLLINS.

H.R. 589: Mrs. MUSGRAVE, Mr. BILIRAKIS, Mr. GALLEGLY, and Mr. SULLIVAN.

H.R. 594: Mr. NEUGEBAUER, Mr. MCCOTTER, and Mr. ETHERIDGE.

H.R. 668: Mr. SANDERS.

H.R. 713: Mr. WEXLER.

H.R. 817: Mr. BECERRA.

H.R. 898: Mr. NEAL of Massachusetts.

H.R. 919; Mrs. BLACKBURN.

H.R. 935: Mr. DEUTSCH.

H.R. 941: Mr. RUSH and Mr. WYNN.

H.R. 967: Mr. MICHAUD.

H.R. 1005: Mr. PICKERING.

H.R. 1006: Mr. VAN HOLLEN, Mr. BRADLEY of New Hampshire, Ms. BALDWIN, and Mr. DOGGETT.

H.R. 1031: Mr. WEXLER.

H.R. 1032: Mrs. JO ANN DAVIS of Virginia and Mr. STUPAK.

H.R. 1068: Mr. DELAHUNT, Mr. SPRATT, Mr. LUCAS of Oklahoma, and Mr. CLYBURN.

H.R. 1105: Mr. THOMPSON of Mississippi.

H.R. 1117: Mrs. MUSGRAVE.

H.R. 1167: Mr. EVANS and Mr. GUTIERREZ.

H.R. 1173: Mr. CHOCOLA.

H.R. 1191: Ms. ESHOO and Mr. BLUMENAUER.

H.R. 1196: Mr. ALLEN.

H.R. 1238: Ms. DUNN.

H.R. 1264: Mr. BISHOP of Georgia.

H.R. 1268: Ms. NORTON.

H.R. 1310: Mr. GOODLATTE, Mr. BOEHNER, Mr. SHAYS, Mr. KINGSTON, Mr. HASTINGS of Washington, Mr. SIMPSON, Mr. BALLENGER, Mr. LUCAS of Kentucky, Mr. WICKER, Mr. PICKERING, Mr. ROGERS of Alabama, Mr. PRICE of North Carolina, and Mrs. MYRICK.

H.R. 1394: Ms. MAJETTE and Ms. VELAZQUEZ.

H.R. 1400: Mr. LYNCH.

H.R. 1444: Ms. SLAUGHTER.

H.R. 1470: Mr. MCDERMOTT.

H.R. 1472: Mr. FILNER and Mr. DOGGETT.

H.R. 1473: Mr. ACEVEDO-VILA and Mr. SANDERS.

H.R. 1477: Mr. MORAN of Virginia.

H.R. 1483: Mr. GRIJALVA and Ms. LINDA T. SANCHEZ of California.

H.R. 1501: Mr. GRIJALVA.

H.R. 1513: Mr. FLETCHER, Mr. GOODLATTE, Mr. GERLACH, Mr. LEWIS of Georgia, and Mr. LUCAS of Kentucky.

H.R. 1606: Mr. DEMINT.

H.R. 1622: Mr. DAVIS of Tennessee, Ms. HART, Mr. SIMMONS, Mr. STUPAK, Mr. FARR, Mr. DEFAZIO, and Mr. WEINER.

H.R. 1634: Mr. BOEHLERT.

H.R. 1647: Mr. KIND.

H.R. 1675: Ms. BALDWIN.

H.R. 1694: Mr. LANGEVIN.

H.R. 1707: Mr. BURGESS and Mr. GREEN of Wisconsin.

H.R. 1709: Mr. BELL and Mr. VAN HOLLEN.

H.R. 1760: Mr. GRIJALVA.

H.R. 1779: Mr. CALVERT and Mr. ISAKSON.

H.R. 1828: Mr. COBLE, Mrs. BONO, Mr. BURR, Ms. JACKSON-LEE of Texas, and Mr. PAYNE.

H.R. 1838: Mr. GUTIERREZ, Mr. RODRIGUEZ, Mr. MICHAUD, Mr. STRICKLAND, and Mr. HOLDEN.

H.R. 1839: Ms. PRYCE of Ohio.

H.R. 1865: Mr. RENZI, Mr. ROSS, and Mr. DAVIS of Alabama.

H.R. 1874: Mr. SANDERS, Mr. MCCOTTER, Mr. ABERCROMBIE, Mr. BOEHLERT, Ms. JACKSON-LEE of Texas, and Mr. DOYLE.

H.R. 1886: Mr. FALEOMAVAEGA and Mr. STARK.

H.R. 1916: Mr. NADLER, Mr. CLYBURN, Ms. CORRINE BROWN of Florida, Mr. LANTOS, Mr. RAHALL, and Mr. GOODLATTE.

H.R. 2009: Ms. SLAUGHTER, Mrs. JONES of Ohio, Mr. FARR, Ms. NORTON, Mr. ROTHMAN, Mr. PLATTS, and Mr. VAN HOLLEN.

H.R. 2022: Mr. MCINNIS and Mr. STARK.

H.R. 2038: Ms. SLAUGHTER.

H.R. 2042: Mr. FROST, Mr. SCHIFF, Mr. WU, Mr. NEAL of Massachusetts, Ms. LOFGREN, Mr. MARKEY, Mr. CROWLEY, Mr. STARK, Mr. KUCINICH, Mr. SMITH of Washington, Ms. HARMAN, Ms. BERKLEY, Mr. ENGEL, and Mr. SANDERS.

H.R. 2154: Mr. GILCHREST.

H.R. 2183: Mr. RUSH, Ms. HART, Mr. ROGERS of Alabama, Mr. HINOJOSA, Mr. SNYDER, Mr. ALEXANDER, and Mr. FILNER.

H.R. 2193: Mr. CAPUANO, Mr. HASTINGS of Florida, Mr. WYNN, and Mr. FROST.

H.R. 2198: Ms. LINDA T. SANCHEZ of California.

H.R. 2208: Mr. FLAKE and Mr. NEUGEBAUER.

H.R. 2211: Mr. ISAKSON.

H.R. 2238: Ms. MCCOLLUM, Mr. ENGEL, Mr. PALLONE, Mr. EMANUEL, Mrs. MCCARTHY of New York, Ms. CORRINE BROWN of Florida, Mr. DEUTSCH, Mr. RANGEL, Mr. FATTAH, and Ms. DELAURO.

H.R. 2246: Mr. GONZALEZ, Mr. JENKINS, Mr. WAMP, Mr. FRANK of Massachusetts, Ms. BALDWIN, Mr. CLYBURN, Mr. DEAL of Georgia, Mr. KENNEDY of Rhode Island, Mr. EHLERS, Mr. DAVIS of Alabama, and Mr. STUPAK.

H.R. 2247: Mrs. JONES of Ohio, Mr. DINGELL, and Mrs. CHRISTENSEN.

H.R. 2253: Mr. CARDOZA, Mr. GARY G. MILLER of California, Mr. HAYWORTH, and Mr. OSE.

H.R. 2262: Mr. STUPAK and Mr. DAVIS of Alabama.

H.R. 2265: Mr. BOEHLERT.

H.R. 2291: Mr. SPRATT.

H.R. 2295: Ms. SLAUGHTER.

H.R. 2318: Mr. LANTOS, Mr. BROWN of Ohio, Mr. DAVIS of Illinois, Mr. WYNN, and Ms. LEE.

H.R. 2333: Ms. BALDWIN.

H.R. 2351: Mr. ROYCE.

H.R. 2373: Ms. MCCARTHY of Missouri.

H.R. 2377: Mr. WEXLER, Mr. GRIJALVA, and Ms. JACKSON-LEE of Texas.

H.R. 2379: Mr. WILSON of South Carolina and Mr. CASE.

H.R. 2414: Mr. BRADLEY of New Hampshire.

H.R. 2418: Mr. FRANK of Massachusetts.

H.R. 2426: Mr. GEORGE MILLER of California, Mr. SCHIFF, Mr. TOWNS, and Mr. BLUMENAUER.

H.R. 2429: Mr. SPRATT.

H.R. 2433: Mr. PAUL, Mr. FROST, and Mr. MCGOVERN.

H.R. 2441: Mr. BEREUTER.

H.R. 2482: Mr. FRANK of Massachusetts.

H.R. 2498: Mrs. CHRISTENSEN.

H.R. 2502: Mr. SHAYS.

H.R. 2505: Mr. BROWN of Ohio, Mr. SCOTT of Georgia, Ms. JACKSON-LEE of Texas, and Mr. MCGOVERN.

H.R. 2512: Mr. WEINER.

H.R. 2513: Mr. STENHOLM.

H.R. 2546: Mr. GRIJALVA, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, and Mrs. TAUSCHER.

H. J. Res. 38: Mr. GOODE.

H. Con. Res. 194: Ms. WATSON.

H. Con. Res. 213: Mr. BALLANCE, Mr. LARSON of Connecticut, Mr. CAPUANO, Mr. DAVIS of Alabama, Mr. LEVIN, and Mr. DEFAZIO.

H. Con. Res. 217: Mr. ENGEL, Mrs. JONES of Ohio, Ms. LEE, Mr. OWENS, Mr. WYNN, Mr. SMITH of New Jersey, and Mr. LEWIS of Georgia.

H. Con. Res. 224: Mr. SANDERS.

H. Res. 103: Mr. MORAN of Kansas and Ms. HART.

H. Res. 136: Mr. LUCAS of Kentucky.

H. Res. 234: Ms. ESHOO, Ms. LOFGREN, Mr. INSLEE, Mr. SANDERS, Mrs. JONES of Ohio, and Mr. SCOTT of Georgia.

H. Res. 240: Mr. SCOTT of Virginia.

H. Res. 273: Mr. BILIRAKIS.

H. Res. 290: Mr. LARSEN of Washington, Mr. HOUGHTON, Mr. LEVIN, Mr. DICKS, Mr. KILDEE, Mr. MANZULLO, Mr. OBERSTAR, Mr. MCDERMOTT, Mr. ENGLISH, and Mr. SOUDER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2555

OFFERED BY: MR. MANZULLO

AMENDMENT NO. 1: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used by the Secretary of Homeland Security to enter into a contract for the procurement of manufactured articles, materials, or supplies unless section 2 of the Buy American Act (41 U.S.C. 10a) is applied to such procurement by substituting ''at least 65 percent'' for ''substantially all''.

H.R. 2555

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 2: In title II, in the item ''OFFICE FOR DOMESTIC PREPAREDNESS—DOMESTIC PREPAREDNESS'', in paragraph (4) after the dollar amount insert ''(increased by $300,000,000)''.

In title III, in the item ''DISASTER RELIEF (INCLUDING TRANSFER OF FUNDS)'', after the first dollar amount insert ''(reduced by $300,000,000)''.

H.R. 2555

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 3: In title II in the item ''OFFICE FOR DOMESTIC PREPAREDNESS—DOMESTIC PREPAREDNESS'', in paragraph (4), after the dollar amount insert ''(increased by $300,000,000)''.

H.R. 2555

OFFERED BY: MR. ENGEL

AMENDMENT NO. 4: In title II, in the item ''OFFICE FOR DOMESTIC PREPAREDNESS—DOMESTIC PREPAREDNESS''—

(1) in paragraph (1), after the dollar amount insert ''(reduced by $500,000,000)''; and

(2) in paragraph (4), after the dollar amount insert ''(increased by $500,000,000)''.

H.R. 2555

OFFERED BY: MR. ENGEL

AMENDMENT NO. 5: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act may be used to issue a certification of offsite emergency evacuation plans of nuclear power plants.

H.R. 2555

OFFERED BY: MS. BALDWIN

AMENDMENT NO. 6: At the end of the bill (before the short title), insert the following:

SEC. ____. None of the funds made available in this Act shall be used to enter into any contract to develop, lease, or procure Coast Guard vessels in the National Security Cutter class or Offshore Patrol Cutter class unless the main propulsion diesel engines are manufactured in the United States by a domestically operated entity. The Secretary of

Homeland Security may waive the restriction in the preceding sentence on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that—

(1) adequate amounts of such components are not available from a domestically operated entity to meet requirements on a timely basis;

(2) such a contract is necessary to acquire capability for national security purposes; or

(3) there exists a significant cost or quality difference between components manufactured in the United States and components manufactured outside the United States.

H.R. 2555

OFFERED BY: MR. LOBIONDO

AMENDMENT NO. 7: In title II, in the item ''IMMIGRATION AND CUSTOMS ENFORCEMENT—AIR AND MARINE INTERDICTION'', after the dollar amount insert ''(reduced by $5,000,000)''.

In title II, in the item ''TRANSPORTATION SECURITY ADMINISTRATION—AVIATION SECURITY''—

(1) after the first dollar amount insert ''(reduced by $10,000,000)''; and

(2) after the fourth dollar amount insert ''(reduced by $10,000,000)''.

In title II, in the item ''TRANSPORTATION SECURITY ADMINISTRATION—ADMINISTRATION'', after the dollar amount insert ''(reduced by $36,000,000)''.

In title IV, in the item ''CITIZENSHIP AND IMMIGRATION SERVICES—OPERATING EXPENSES'', after the dollar amount insert ''(reduced by $12,000,000)''.

In title IV, in the item ''UNITED STATES COAST GUARD—OPERATING EXPENSES'', after the first dollar amount insert ''(increased by $35,000,000)''.

In title IV, in the item ''UNITED STATES COAST GUARD—ACQUISITIONS, CONSTRUCTION, AND IMPROVEMENTS''—

(1) after the first dollar amount insert ''(increased by $75,000,000)''; and

(2) after the sixth dollar amount insert ''(increased by $75,000,000)''.

In title IV, in the item ''SCIENCE AND TECHNOLOGY—RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS'', after the dollar amount insert ''(reduced by $47,000,000)''.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, MONDAY, JUNE 23, 2003 No. 93

Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, the Reverend Greg St. Cyr, of the Bay Area Community Church in Annapolis, MD.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray together.

God, I thank You for these men and women whom You have raised up to lead our Nation. Thank You for Your grace in their lives, for their gifts, for their talents, for their individual backgrounds, for their families, and for the States they represent. We acknowledge You as the Author and Sustainer of life. You are the God who holds us in the palm of Your hand, whose eye is always upon us, whose love is always with us.

We come before You now in need of You. You know all things. You know the present challenges we face, and You are intimately aware of our future. When King Solomon was newly crowned, he prayed to You asking that You would ''Give Your servant an understanding heart to judge Your people to discern good and evil (1 Kings 3:9).'' That request was pleasing in Your sight and You blessed him with wisdom. We come with a similar prayer.

Grant us supernatural wisdom to accomplish Your will and vision for our Nation this day. I pray Your blessing on each Senator, that they would have an understanding heart of wisdom to serve Your purposes today. Grant them godly leadership, wisdom, and courage. I ask this prayer in the name of Jesus Christ. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will immediately resume consideration of S. 1, the prescription drug benefits bill. We currently have 15 pending amendments from last week. As I have stated, these amendments are being reviewed, and we will begin the process of scheduling votes, as necessary, on some of these amendments. As previously announced, we will have a vote at 5:30 this evening on an amendment to S. 1. We will alert all Members shortly as to which of those amendments that will be. The managers will be discussing that shortly.

A number of Members have indicated they will be prepared to offer additional amendments during today's session. The two managers will be working with those Senators to set aside the pending amendments in order to consider further amendments over the course of the day. I am very pleased with what we accomplished last week, including last Friday, at which time we had a productive day in the offering and initial discussion of these amendments.

As we previously said, we will plan on completing action on this bill this week before the recess. We will have full days and, I am sure, late nights with votes until we complete action on this bill. We will complete this historic legislation prior to adjourning for the July Fourth recess. I do encourage all Members to prepare themselves for what will be a very busy and productive week. I do thank all Members in advance for their assistance this week and in participating with the managers to bring this bill to closure.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1) to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

Pending:

Bingaman amendment No. 933, to eliminate the application of an asset test for purposes of eligibility for premium and cost-sharing subsidies for low-income beneficiaries.

Graham (FL) amendment No. 956, to provide that an eligible beneficiary is not responsible for paying the applicable percent of the monthly national average premium while the beneficiary is in the coverage gap and to sunset the bill.

Kerry amendment No. 958, to increase the availability of discounted prescription drugs.

Lincoln modified amendment No. 934, to ensure coverage for syringes for the administration of insulin, and necessary medical supplies associated with the administration of insulin.

Lincoln amendment No. 935, to clarify the intent of Congress regarding an exception to the initial residency period for geriatric residency or fellowship programs.

Lincoln amendment No. 959, to establish a demonstration project for direct access to physical therapy services under the Medicare Program.

Baucus (for Jeffords) amendment No. 964, to include coverage for tobacco cessation products.

Baucus (for Jeffords) amendment No. 965, to establish a Council for Technology and Innovation.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Nelson (FL) amendment No. 938, to provide for a study and report on the propagation of concierge care.

Nelson (FL) amendment No. 936, to provide for an extension of the demonstration for ESRD managed care.

Baucus (for Harkin) amendment No. 967, to provide improved payment for certain mammography services.

Baucus (for Harkin) amendment No. 968, to restore reimbursement for total body orthotic management for nonambulatory, severely disabled nursing home residents.

Baucus (for Dodd) amendment No. 969, to permit continuous open enrollment and disenrollment in Medicare Prescription Drug plans and MedicareAdvantage plans until 2008.

Baucus (for Dodd) amendment No. 970, to provide 50 percent cost-sharing for a beneficiary whose income is at least 160 percent but not more than 250 percent of the poverty line after the beneficiary has reached the initial coverage gap and before the beneficiary has reached the annual out-of-pocket limit.

Baucus (for Cantwell) amendment No. 942, to prohibit an eligible entity offering a Medicare Prescription Drug plan, a MedicareAdvantage Organization offering a Medicare Advantage plan, and other health plans from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements.

The PRESIDING OFFICER. The distinguished Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I see the Senator from West Virginia is in the Chamber.

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. BAUCUS. 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. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside so the Senator from West Virginia can offer his amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The distinguished Senator from West Virginia is recognized.

AMENDMENTS NOS. 975 AND 976

Mr. ROCKEFELLER. Mr. President, before offering my amendments, I am going to discuss both of them because they are being reviewed, at this point, in the majority cloakroom. But I am going to be offering two amendments this afternoon in order.

The first amendment I will offer is to ensure that all Medicare beneficiaries will be eligible for this new drug benefit, including low-income Medicare beneficiaries who are currently eligible for Medicaid and Medicare. They are known as dual eligibles.

The underlying bill precludes Medicare beneficiaries—makes it impossible for Medicare beneficiaries—who are eligible to receive a drug benefit through Medicaid from, in fact, enrolling in the Medicare drug benefit program.

This group is referred to as the dual-eligible group. They are the poorest seniors under Medicare. They are below 74 percent of poverty. That is their income level. A disproportionate share of them—to wit, 42 percent—are minorities. Women make up the majority of them all. Many are likely to have a poor education, live alone, and have more than two chronic illnesses.

The underlying bill precludes these folks that I have just talked about—these duel-eligible beneficiaries—from receiving the Medicare drug benefit. As a result, this prescription drug benefit is not, in fact, at all a universal bill. Now, that is important in a lot of ways. One is philosophical and the other is extremely practical.

The philosophical one is that in 1965, when we created Medicare, it was created as a universal benefit to all who qualify. It was the promise that society made to our seniors: That if you work, if you make your payroll contributions, then you, at the proper time, qualify for Medicare regardless of where you live, regardless of how old you might be, or your income.

As I have noted before, the underlying legislation, for the first time in the history of the Medicare Program, would prohibit some Medicare beneficiaries from receiving a Medicare benefit.

My amendment would make the Medicare prescription drug benefit a universal benefit by adopting the provisions that were, in fact, contained in the tripartisan proposal introduced last summer.

It would eliminate the exclusion of Medicaid beneficiaries and make the new Medicare Part D drug benefit—that is the new part we are creating—available to all Medicare beneficiaries regardless of income. Medicaid would be the secondary payer for Medicare beneficiaries eligible for Medicaid wrapping around this new Part D drug benefit and its low-income protections.

Again, this is exactly the same construction the majority of my Republican colleagues supported in the Grassley-Snowe-Hatch-Jeffords-Breaux Medicare bill that was voted on by the full Senate last summer. The National Governors Association sent a letter to Chairman GRASSLEY and Senator BAUCUS which said the following about the exclusion of some of these seniors, that is, the dual-eligible seniors, those at 74 percent or below the poverty level, from Medicare:

> The nation's Governors oppose this approach. It is not good health policy. It is not good precedent. A major reason that States currently have a long-run structural problem in their fiscal outlook is that they have absorbed responsibility for dual eligibles.

They go on to say:

> This provision will continue to shift appropriate federal costs to the states.

Governors Patton of Kentucky and Kempthorne of Idaho went on to say:

> If the dual eligible populations continue to be a joint responsibility, states will be forced to cut the optional (Medicaid) benefits and populations—mostly women and children—which are a key investment in the future.

The President agrees. In a speech he recently gave on Medicare, he said:

> And all low-income seniors should receive extra help so that all seniors will have the ability to choose a Medicare option that includes a prescription drug benefit.

The Medicare prescription drug legislation being considered by the House of Representatives would shift the entire drug bill to Medicare. It is not on a frequent day that Chairman THOMAS and I are in full agreement. But he does say such a shift ''ensures that all seniors across the country will have access to affordable prescription drugs, while alleviating much of the burden that states now confront.'' I say to my colleagues, as I indicate, I am not always in agreement, but we are going forward directly together on this policy, I hope.

The current system is uncoordinated and sometimes conflicting in terms of coverage policies. It actually creates worse health outcomes for people on both Medicaid and Medicare, either one. Fully integrating a key benefit for prescription drugs into Medicare is a critical first step toward improving the current system's flaws.

It needs to be clearly understood by my colleagues that Medicaid in the hands of Governors, which I had the honor of being at one point, is subject to whatever their whims might be. It is subject to budget pressures. Remember, they have to balance the budget. We don't; they do. And they frequently do it on the backs of Medicaid beneficiaries—that is, that part of these Medicare-Medicaid dual eligibles—so they can increase the number of prescription drugs which are available under Medicaid in their State. They can change it in many ways because the programs vary widely. Not only is it unfair to exclude the poorest seniors from part of the Medicare program, it is a raw deal for some of our neediest seniors.

Prescription drugs are, as I said, an optional benefit under Medicaid. States can and do limit the number of prescriptions. Some States only cover three drugs or they could charge any copayments they want. Remember, what we are looking at here is a group of people who are below 74 percent of poverty which is clearly in single-digit gross income. So the patchwork of the benefits varies tremendously from State to State. For seniors who have worked all their lives, paid into the Medicare system, it is not fair for them to be at the mercy of State coverage decisions.

If you look around the country right now, the fastest growing expense of any State is Medicaid, part of this dual-eligible conundurm, and those programs are being cut. You can see it, read about it, and hear about it. So it is highly volatile, and it is not safe health care policy.

Medicare has failed in its efforts to provide comprehensive prescription drug coverage to seniors ever since the

repeal of the Medicare Catastrophic Act in 1988. Virtually all advances in drug coverage for seniors since then have been delivered not by us but by the States. While at the same time the States have been cutting back in recent years, they have also made improvements. We have done nothing. They have done whatever has been done.

Without some long-term restructuring of the State-Federal partnership for this population, this dual-eligible, 74-percent-of-poverty-minus population, much of the advances the States have made will be lost. All Medicare beneficiaries deserve to receive Medicare benefits. There should be no exceptions for drugs. It would be very bad precedent to make Medicaid pay for items that are clearly the responsibility of Medicare except at the present and in this bill for one particular discrete population.

The intention is for this amendment to be budget neutral. I would like to say it is budget neutral, but I cannot in that I asked CBO for a cost estimate last week and I do not yet have one.

This is a concern and an agony shared by many. Once we have this estimate, we will either conclude that we can go ahead because we will know it is budget neutral or I will be happy to work with the chairman and ranking member on appropriate offsets.

I urge my colleagues to provide all the seniors in their States with the benefit of real Medicaid drug benefit by supporting this amendment.

I will at the appropriate time ask that it be acted upon. I am awaiting a particular series of sheets of paper but in the meantime, in the minute or so that will require, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Ms. MIKULSKI, and Mrs. CLINTON, proposes an amendment numbered 975.

The amendment is as follows:

(Purpose: To make all Medicare beneficiaries eligible for Medicare prescription drug coverage)

On page 10, lines 12 and 13, strike ''(other than a dual eligible individual, as defined in section 1860D–19(a)(4)(E))''.

On page 21, strike lines 22 through 25, and insert ''title XIX through a waiver under 1115 where covered outpatient drugs are the sole medical assistance benefit.

On page 107, line 3, strike ''30 percent'' and insert ''27.5 percent''.

On page 116, line 10, insert ''and'' after the semi-colon.

On page 116, line 12, strike ''; and'' and insert a period.

On page 116, strike lines 13 through 17.

On page 116, line 24, insert ''and'' after the semi-colon.

On page 117, line 2, strike ''; and'' and insert a period.

On page 117, strike lines 3 through 7.

On page 117, line 13, insert ''and'' after the semicolon.

On page 117, line 17, strike ''; and'' and insert a period.

On page 117, strike lines 18 through 23.

On page 118, line 6, insert ''and'' after the semicolon.

On page 118, in line 13, insert ''or'' after the semi-colon.

On page 118, line 14, strike ''; or'' and insert a period.

On page 118, strike line 15.

Beginning on page 118, strike line 16 and all that follows through page 119, line 9.

On page 119, line 10, strike ''(F)'' and insert ''(E)''.

On page 119, line 15, strike ''(G)'' and insert ''(F)''.

On page 119, line 19, strike ''(C), (D), or (E)'' and insert ''(C), or (D)''.

On page 120, line 3, strike ''(H)'' and insert ''(G)''.

On page 120, lines 5 and 6, strike ''who is a dual eligible individual or an individual''.

Beginning on page 121, line 24, strike ''dual eligible'' and all that follows through ''and'' on page 122, line 1.

On page 146, line 6, insert before the period ''and to the design, development, acquisition or installation of improved data systems necessary to track prescription drug spending for purposes of implementing section 1935(c)''.

Beginning on page 146, strike line 23 and all that follows through page 149, line 21, and insert the following:

''(c) FEDERAL ASSUMPTION OF MEDICAID PRESCRIPTION DRUG COSTS FOR DUALLY ELIGIBLE BENEFICIARIES.—

''(1) IN GENERAL.—For purpose of section 1903(a)(1) for a State for a calendar quarter in a year (beginning with 2006) the amount computed under this subsection is equal to the product of the following:

''(A) STANDARD PRESCRIPTION DRUG COVERAGE UNDER MEDICARE.—With respect to individuals who are residents of the State, who are entitled to, or enrolled for, benefits under part A of title XVIII, or are enrolled under part B of title XVIII and are receiving medical assistance under subparagraph (A)(i), (A)(ii), or (C) of section 1902(a)(10) (or as the result of the application of section 1902(f)) that includes covered outpatient drugs (as defined for purposes of section 1927) under the State plan under this title (including such a plan operated under a waiver under section 1115)—

''(i) the total amounts attributable to such individuals in the quarter under section 1860D–19 (relating to premium and cost-sharing subsidies for low-income medicare beneficiaries); and

''(ii) the actuarial value of standard prescription drug coverage (as determined under section 1860D–6(f)) provided to such individuals in the quarter.

''(B) STATE MATCHING RATE.—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

''(C) PHASE-OUT PROPORTION.—Subject to subparagraph (D), the phase-out proportion for a quarter in—

''(i) 2006 is 95 percent;

''(ii) 2007 is 90 percent;

''(iii) 2008 is 85 percent;

''(iv) 2009 is 80 percent;

''(v) 2010 is 75 percent; or

''(vi) 2011, 2012 and 2013 is 70 percent.

''(d) MEDICAID AS SECONDARY PAYOR.—In the case of an individual who is entitled to a Medicare Prescription Drug plan under part D or drug coverage under a MedicareAdvantage plan, and medical assistance including covered outpatient drugs under this title, medical assistance shall continue to be provided under this title for covered outpatient drugs to the extent payment is not made under the Medicare Prescription Drug plan or a MedicareAdvantage plan.

Beginning on page 152, strike line 3 and all that follows through page 153, line 15, and insert the following:

''(f) DEFINITION.—For purposes of this section, the term 'subsidy-eligible individual' has the meaning given that term in subparagraph (D) of section 1860D–19(a)(4).''.

(C) CONFORMING AMENDMENTS.—

(1) Section 1903(a)(1) (42 U.S.C. 1396a(a)(1)) is amended by inserting before the semicolon the following: '', reduced by the amount computed under section 1935(c)(1) for the State and the quarter''.

(2) Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting ''and section 1935(e)(1)(B)'' after ''Subject to subsection (g)''.

Beginning on page 157, strike line 21 and all that follows through page 158, line 4.

On page 173, beginning on line 15, strike ''that is not'' and all that follows through ''includes'' on line 18 on that page, and insert ''that includes but is limited solely to''.

On page 190, in line 18, strike ''and''.

On page 190, between lines 18 and 19, insert the following:

''(B) is not a dual eligible beneficiary as defined under section 1807(i)(1)(B); and''.

On page 190, line 19, strike ''(B)'' and insert ''(C)''.

Mr. ROCKEFELLER. Mr. President, I also have the amendment for which I just spoke. I ask unanimous consent that that be brought to the desk for its consideration and the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection to setting aside the amendment?

Mr. GRASSLEY. Reserving the right to object, and I shall not object, I would like to remind the Members of my caucus we do have an arrangement between the two parties that every other amendment offered could be offered by a Republican and then in turn by a Democrat. We have several Democrat amendments pending. There is nothing wrong with that. It hasn't hurt the process at all. But I think it would be fair for me to remind the Members of the Republican caucus if they have amendments to propose, come over and do it. It will speed up the process and I think be considered a little more fair by everybody here. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Mr. CARPER, Mr. GRAHAM of Florida, Ms. MIKULSKI, Mrs. CLINTON, and Mr. DODD, proposes an amendment numbered 976.

Mr. ROCKEFELLER. 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 treat costs for covered drugs as incurred costs without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs)

On page 51, strike lines 15 through 25 and insert the following:

''(ii) such costs shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

Mr. ROCKEFELLER. Mr. President, I wish to proceed with the amendment I was going to offer first but which will be my second amendment. That also will await the decision of the leadership.

Mr. President, I come to the floor again to offer an amendment that will ensure that contributions made on a beneficiary's behalf by their former employers count toward that beneficiary meeting the catastrophic limit. Let me just say, as I begin this, in our Finance Committee deliberations, it was this amendment which caused more stir, more angst, more sense of, oh, my heavens, we have not really done this, have we? We could not have made this mistake involving this many people. The amendment was handled in Finance—without success, from my point of view. Nevertheless, I was urged by colleagues on both sides of the aisle to bring this amendment to the floor because it has enormous implications. That will become apparent, hopefully, as I complete my statement.

This amendment is needed to protect the existing coverage of literally millions and millions of retirees who have earned drug coverage through their employer. That means they have been employed much of their lives by their employer and they have now retired and they are Medicare beneficiaries and the employer gave retiree benefits. We are accustomed to this in chemical, steel, and many other industries. But there is a problem that has arisen.

As much as we want to provide a new drug benefit for these seniors, we should not disrupt the basically foundational employer-provided drug coverage so many seniors have today. It is the largest source of drug coverage in the country and it is an honorable and a good one. It would be a very great mistake for my colleagues to walk away from this system and one that we would all very much regret.

Mr. President, in saying that employer-sponsored retiree health benefits are the largest single source of coverage for retirees, I simply say that one in every three Medicare beneficiaries is affected by the amendment I am now discussing. They will either lose their coverage or they will not, depending upon how this amendment is disposed.

Drug costs constitute 40 to 60 percent of employers' retiree health care costs. That is a lot. And steep price increases are prompting employers to, one, eliminate drug benefits in some circumstances; secondly, cap their contributions; thirdly, drop retiree coverage altogether. We all know this is a phenomenon of American life that has been going on in recent years.

Employers need immediate relief for their retiree prescription drug costs. A Medicare prescription drug benefit should relieve some of the burden on employers by covering a retiree's cost after a certain catastrophic limit. I recognize this gets technical, but it is profound. Instead, this benefit extends the amount of time before a retiree reaches that catastrophic benefit of about $4,000 by not being able to count as the employee's contribution—in fact, the employer's contribution toward that end is very substantial. Therefore, the employer receives no real relief from this benefit and is forced to drop the coverage they currently provide their retirees, leaving Medicare to pay the entire cost.

I think I do not have to explain that that means the Federal Government has to pick up even more of the cost of Medicare and prescription drugs than would otherwise be the case, for example, if this amendment were to pass.

The bill we are considering on the floor today exacerbates the current downward trend in retiree benefits by extending the amount of time the beneficiary relies on the employer before reaching the catastrophic limit. What does that say? It says if you extend the amount of time the employee has to keep paying and paying toward his catastrophic limit for a much longer time, there is therefore much more out-of-pocket costs to the employee.

This legislation discriminates against Medicare beneficiaries with employer-provided coverage with a trick definition—that is what is used—of out-of-pocket costs known, uninterestingly, as the ''true'' out-of-pocket costs. This plan would not allow any spending by employers to count toward meeting the catastrophic limit. In this way, the underlying legislation limits the overall spending by the Medicare Program at the expense of employers who offer retiree coverage.

The result is CBO estimates, as I indicated, that 37 percent of beneficiaries currently receiving a drug benefit from their employee will lose that coverage. Additionally, it extends the amount of time, as I have indicated, a beneficiary has to reach the catastrophic limit, exposing them to additional and more and more costs. I think we should all agree that one of the goals of this legislation should be to encourage employers who are currently providing drug coverage to their retirees to continue, in fact, to do so. It should reward and strengthen those employers because the benefit they are providing goes a long way toward helping American seniors afford prescription drugs. The legislation should not force employers to drop their coverage by making their contribution on a beneficiary's behalf meaningless or, rather, by not concluding that the employer's contribution as part of the retiree's expenditures counts toward the catastrophic limit. In other words, simply take what the employer contributes to this, include that on top of what the employee contributes, and you have a much better count toward the money that is spent toward getting to the catastrophic limit and the rate at which you get there.

Without adoption of my amendment, this plan penalizes employers who are trying to do the right thing by providing retiree health benefits. It is not in anybody's best interest for employers to decide that contributions for prescription drug coverage just keep retirees from reaching the catastrophic drug limit. Without modifying how employer contributions are treated under this legislation, we are ultimately threatening retiree coverage and driving millions more seniors to obtain Medicare coverage from their employers.

My amendment removes the so-called true out-of-pocket concept and replaces it with a real out-of-pocket concept which better reflects the seniors' true drug spending. According to CBO, the true out-of-pocket approach is a significant component of why employers drop coverage. Again, the underlying bill is the reason why 37 percent of those covered by their employers will be dropped. That I am trying to eliminate. Therefore, eliminating the true out-of-pocket expenses will go a long way toward keeping employers in the business of providing drug coverage for their retirees.

Mr. President, I urge my colleagues to adopt this amendment. I expect that the retirees in our States may well end up with a less comprehensive or more expensive prescription drug benefit as a result of this legislation should we fail to adopt this amendment.

I thank the Presiding Officer and yield the floor.

Mr. BAUCUS. 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. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, the Senator from West Virginia raises an important point in his amendment. In the underlying bill from the Senate Finance Committee, beneficiaries who are enrolled in both Medicaid and Medicare—and this is the group we call dual eligibles—would continue to receive drug coverage under the Medicaid Program.

Some of my colleagues have argued that by having dual eligibles remain in the Medicaid Program, Congress is thus treating these vulnerable seniors as second-class citizens and subjecting them to lower quality benefits. I strongly disagree with that point of view.

I have worked closely with my Finance Committee colleagues on the development of this package, and we had an opportunity during this debate to reflect on the concerns that were

raised by the Senator from West Virginia and also by others during the debate last summer of the so-called tripartisan bill, meaning the bill that was before the Senate in 2002.

All of us authoring the underlying bill took these concerns to heart. We made the decision that it was most beneficial to these seniors to continue to build off the existing Medicare and Medicaid low-income assistance programs that they know and understand.

That said, I remind my colleagues that the intent of this legislation is to expand prescription drug coverage to our senior citizens who do not have access to the prescription drugs and who are faced with paying a large share of their income for their drug coverage.

About two-thirds of the citizens of the United States today have some coverage for prescription drugs. Retirees from major corporations have prescription drugs paid for in their retirement plans. We have people who are in Medicare plus their Medigap policies that also have some coverage, and then we have lower income people who are dual eligibles who are covered under both Medicare and Medicaid. This makes up 60-some percent of the seniors of America who have some drug coverage.

We want to fill in the gap for those who do not have drug coverage or might have inadequate drug coverage. Quite frankly, for people who already have drug coverage, particularly those who have lower incomes, who are covered by State Medicaid Programs, we felt it was best not to upset their coverage, not to give that group any angst about how they might be covered in the future while the debate on this legislation was going on and how it might be put in motion, so we decided just to leave those as is.

The Senator from West Virginia believes it would be better if we would cover them under our plans that are meant for people who have no coverage whatsoever.

We are in a situation where coverage experienced by those who are dual eligible is the issue before us. These seniors currently have drug benefits through the Medicaid Program. In fact, many advocates and beneficiaries describe these benefits as very generous. Medicaid beneficiaries have come to know their drug benefits, along with its nominal levels of cost sharing. We should not require seniors to leave coverage with which they are comfortable.

Further, I remind my colleagues that we are discussing populations eligible for both Medicare and Medicaid. Medicaid was created to assist individuals who do not have the means to pay for their share of health care costs. That is a responsibility that is shared by the Federal Government and by State governments. Medicaid pays for many benefits that Medicare does not.

Is the purpose of the prescription drug bill before us to grant fiscal relief to the States, which would be what the amendment of the Senator from West Virginia would do? I do not believe that is what we should be doing.

We all know the purpose of the prescription drug bill is to provide prescription drugs to seniors who do not currently have access to drugs or otherwise would be paying extremely high drug costs and, hence, the provisions of our legislation for catastrophic coverage.

However, recognizing the costs associated with covering the cost of providing prescription drug coverage to dual-eligible populations, the bill before us does provide nearly $18 billion in new Federal dollars to compensate States for some of these additional costs, mostly because it is a fast growing part of the Medicaid budgets of most States.

The funding we provide in this bill will be channeled to States by federalizing the cost of Part B premiums for dual eligibles in a subclass called qualified Medicare beneficiaries. This is because the prescription drug bill before us provides minimum standards that ensure the benefit provided through Medicaid is at the same high quality that is being provided through Part D of our Medicare Program.

As is usually the case, the argument would be made yet that we should still do more and perhaps serve this population differently than we do. But, in fact, we developed the underlying bill to best utilize the availability of $400 billion, an absolute figure that we must be in; otherwise, we are subject to a point of order and, in a sense, instead of 51 votes it takes to pass this body, one could argue it would take 60 votes. If we exceeded the $400 billion, we would have to have 60 votes.

Our approach helps to deliver care that is consistent with current law but, most important, familiar to vulnerable beneficiaries.

A prime rationale behind our legislation is it really does not make seniors do anything they do not want to do. We set up a new Medicare Program that is closer to what baby boomers have in the workplace today. They can choose that or they can choose to stay in the 1965 model Medicare.

People who want to stay in the 1965 model Medicare can choose voluntarily to join a prescription drug program. They do not have to. We wanted to help those who are in Medicaid to stay in Medicaid if they wanted to. They do not have to go into these new programs.

Finally, I remind my colleagues that the adoption of this amendment will not expand coverage at all. It will simply shift the cost to the Federal Government and, in time, to other Medicare beneficiaries.

So after careful thought, because at one time we did debate internally the substance of the amendment by the Senator from West Virginia to federalize all dual eligibles, we thought maybe we should include that in the program, but we figured it raised a lot of questions from people who are already adequately covered and who seemed to be very satisfied.

Also, there are some additional costs that would subtract from what we could do for those who have no coverage for prescription drugs whatsoever, and in order to get the most bang for the dollar within the $400 billion that is in the budget for this program, we decided to leave the dual-eligible program alone. That is why I suggest we defeat Senator ROCKEFELLER's amendment when it comes to a vote.

I yield the floor.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. GRASSLEY. Mr. President, the Senator will try to answer a question, yes.

Mr. ROCKEFELLER. I thank the Senator, and this is in the form of a question. I fully understand the constraints of the $400 billion, as the chairman of the Finance Committee indicates, and I think we all understood that to do a full prescription drug benefit, it was going to take substantially more than that, particularly if one included other matters. But would the Senator not agree that there are really two ways of looking at dual eligibles and their dependence now upon Medicaid which is paid by the States?

Up until the fairly recent past, States were doing very well and Medicaid benefits, to some degree, were expanding. I reflected on that as to my State. The other way of looking at it is to look at what is happening to Medicaid now in the States because of the balanced constitutional amendment requirements and because of the fiscal condition of the States, which is getting worse every single day, and the fact that Medicaid is the fastest rising cost in any State government budget, and the fact that the States have complete control over what happens to the Medicaid benefit.

So would the Senator from Iowa not agree that if a State using Medicaid, which is a combination of State and Federal funds, nevertheless decides to cut—since that is optional within the State, under the Government's control, that the Governor can cut that and indeed has done so, as we have been reading and hearing about, and indeed can limit coverage, cap coverage and therefore cut back tremendously on the so-called drug coverage that the chairman of the Finance Committee was extolling?

I agree that if we were in a flush time and the States were able to afford a good drug benefit under Medicaid and use it for that particular dual-use population, the Senator is right, but I think we are looking now at a period of a number of years where we are not going to be in that situation. I think that puts the dual eligibles, 74 percent or less of poverty, at terrible risk, and that is not something I associate with my understanding of the values of the Senator from Iowa, whom I so much respect.

Mr. GRASSLEY. Mr. President, I cannot disagree with the Senator from West Virginia, but I think the answer is that there are 50 different answers to his question from the standpoint of there being 50 different States with 50 different budget situations. So there is not just one answer to his question.

Another way to say it is I would have to understand the situation in 50 different States and then, in a sense, give 50 different answers. But there is a recognition on the part of the Congress of what the Senator from West Virginia says and a response by the Federal Government to that, albeit a temporary response, when over a 2-year period of time we decided to put $20 billion of State aid to the States, and we did that through the tax bill recently signed by the President of the United States, of which $10 billion was earmarked for Medicaid solely because the Congress understood the problems the Senator from West Virginia has adequately described, and then another $10 billion of other State aid that a State is free to use for Medicaid or anything else.

I assume some States that have very bad Medicaid fiscal problems might take some more of that additional $10 billion to use for Medicaid.

In further answer to my colleague's question, what we face is the issue of about $16 billion a year just for drug costs. Multiply that times the 10 years we have to look ahead. That is about $160 billion, I believe, of the $400 billion which would go then for groups who are already covered, detracting then from the 30-some percent of people who have no prescription drug coverage.

We would like to fill in the gap of those who have no coverage as opposed to some who have very good coverage. I know it varies from State to State how Medicaid might cover certain groups of seniors with prescription drugs, but I think the Senator would say they have had a better program for sure than most people—except maybe those who are on a corporate retirement plan, which is only about 30 percent of our people—than anybody else, particularly those who have no coverage whatsoever.

In further answer to the question of the Senator from West Virginia, it is a case of priorities. We have suggested those who already have some coverage, and very good coverage, we would basically leave untouched and then would try to use our resources for those who have no coverage whatsoever.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I apologize for not speaking through the Presiding Officer before, but will the Senator from Iowa yield for only one additional question?

Mr. GRASSLEY. I yield for an additional question.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ROCKEFELLER. The Senator has responded simply by saying he would have to answer it in 50 different ways because there are 50 different States. To that I say yes, and all of them are either in the process of or will be in the process of cutting Medicaid and, therefore, the dual beneficiaries.

I ask the Senator from Iowa, is there not a further consideration, and that is when we are dealing with this maximum poor number of people under Medicare, or Medicaid in the case of the dual eligibles, we are also dealing with something which has not been discussed on this floor or indeed was not discussed in the Finance Committee at any length at all, and that is a really frightening problem of assets that, for example, one can apply, one can be under this program up to 130 percent of poverty. Then there is another one that says you can be under this Part B plan up to 160 percent of poverty, but if your assets reach over $4,000, assets which you maintain, you are then kicked from the lower to the upper bracket without any discussion. There is enormous penalty, for example, for owning a car, for owning anything. You would not be living in rural Calhoun in West Virginia without a car. Your home is exempted but nothing else is.

At one point I was thinking of offering an amendment—and I may still do so—exempting burial plots from the asset test that would be applied to poor people.

I ask the Senator from Iowa if he would say a word on this whole question, adding to the dual eligibles and deciding if—as he said, we have to pick our priorities—we are going to leave it to the States, even though I argue that States will cut that. Is it not also bringing up this whole subject of the assets of the poor families and the effect on them if they become ineligible for the bracket in which they belong and, therefore, cannot afford prescription drugs.

Mr. GRASSLEY. Mr. President, I will answer the Senator's question by giving some detail about the issue of the asset test. It is a legitimate point of discussion as we deal with this legislation. Rather than just speaking specifically to his question, I answer it more generally with how we try to respond to the issues he brought up.

The asset test in the underlying bill is the same asset test currently used for determining eligibilities for the qualified Medicare beneficiaries, specified low-income Medicare beneficiaries, and qualified individuals. Those are three separate categories of low-income people that I just described.

S. 1 provides a generous low-income subsidy for those who are below 160 percent of the Federal poverty level. Currently, in order for some individuals under 160 percent of poverty to receive limited Medicaid protections, there must be both an income test and an asset test. In the underlying bill, we simply follow the same rules in order for low-income beneficiaries to see assistance with their prescription drug coverage. By including the Medicaid asset test for Medicare prescription drug subsidies, we are providing beneficiaries with seamless health coverage. We are not confusing beneficiaries, and we are not adding additional administrative burdens to the States.

I will give some background on the current asset test included in the Medicaid Program. The group called qualified Medicare beneficiaries are individuals below 100 percent of poverty. In 2006, the annual income limit is $9,670 for individuals and $13,051 for couples. This qualified Medicare beneficiary group is allowed to have assets below $4,000 for individuals and $6,000 for couples. That is exactly what the Senator from West Virginia asked me about and implied some limitations because of that.

Yes, there are limitations because of that, but they are legitimate limitations within the priorities of our $400 billion budget limit.

Then we have the category of specified low-income Medicare beneficiaries, and then the qualified, and those are people with incomes between 100 percent of poverty and 135 percent of poverty. In 2006, the annual income limits of this group, $13,054 for individuals, $17,618 for couples, these two groups are allowed to have assets below $4,000 for individuals and $6,000 for couples. Beneficiaries between 136 percent of poverty and 159 percent of poverty will have annual income limits of $15,472 for individuals and $20,881 for couples in 2006. Beneficiaries between 136 and 159 percent of poverty would not be subject to those asset rules.

Current law establishes resource limits for low-income elderly or disabled individuals. Let me emphasize, this is not a newly added restriction on certain low-income Medicare beneficiaries. However, current law also provides States with the flexibility to choose to disregard all or part of these resources.

The issue of changing this asset test is one that would very drastically increase the number of eligible beneficiaries. Understand that the question the Senator from West Virginia raised about changing the asset test would very dramatically increase the number of people eligible.

Now, again, we get back to the priorities of fitting in the $400 billion in the budget. Give more help to this group of people that already have some help from our legislation, then there is less for other people, particularly less for people who have no help whatever.

A study was prepared by the Kaiser Family Foundation estimating this group could be as many as 11 million individuals if the asset test were eliminated and obviously to a lesser extent if it were increased by some amount.

S. 1 currently includes a provision requiring the General Accounting Office to conduct a study and make recommendations to Congress by the year 2007 regarding the extent to which drug

utilization and access to covered drugs differs between qualifying dual eligibles who receive subsidies and individuals who do not qualify solely because of the application of the asset test. This report ensures that there will be opportunities in the future to debate the question raised by the Senator from West Virginia.

There is a limited number of dollars available for the Medicare drug benefit. In the writing of this bill, we made a conscious decision to devote excess dollars to filling the gap in coverage—which means what we commonly refer to around here as the donut hole—rather than eliminating or changing to some extent the asset test the Senator from West Virginia is asking me about.

This bill already provides generous coverage to low-income seniors. This amendment will not only cost more money, it will add more confusion to both States and Medicare beneficiaries.

I hope I have sufficiently explained the rationale behind our bill. I may not have directly answered the question of the Senator from West Virginia, but I thought I should take time to explain the rationale behind our bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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. BAUCUS. Mr. President, I would like to say a couple of words about one of the two amendments offered by the distinguished Senator from West Virginia regarding the true out-of-pocket expenses, where the employers' contributions to retirees' health care plans be considered in calculating the out-of-pocket expense that would determine when a senior citizen reaches the stop loss provisions of this bill.

This may sound like a fairly arcane point, but it is a very important one.

Let me just describe the provisions of the bill. Under the bill, after a $275 deductible, the provisions of this bill require that employees would receive a contribution from the Government of 50 percent of each prescription he or she filled, up to $4,500 in drug expenses. After that amount, $4,500, then seniors would pay 100 percent of the costs until the beneficiary's spending reached $3,700. This should not be confused with total spending, of which the beneficiary spent $3,700 out of his pocket. It would be $5,812.

Anyway, after the beneficiary spends $3,700 out of pocket, the total stop loss coverage kicks in and the Government picks up 90 percent of the beneficiary's drug spending and the beneficiary, him or herself, pays 10 percent.

The real question is, What about the employers' contributions? Would they count toward the stop loss coverage? Under the underlying bill, all spending must be provided by the beneficiary, not on behalf of the beneficiary. As a consequence, employers' contributions would not count. The CBO estimates up to 37 percent of retiree health coverage would therefore be dropped by employers.

Just to recapitulate, the amendment offered by the Senator from West Virginia basically provides that the stop loss amounts in the underlying bill should be based on out-of-pocket costs, and the employers' contribution towards retiree health benefits could count towards that stop loss computation.

What about this? Frankly, I have a lot of sympathy for the Senator's amendment. That is, as it currently stands, the beneficiary, a senior citizen, would have to spend $3,700 before the stop loss would be calculated. Under the amendment offered by the Senator from West Virginia, that amount would be quite a bit lower.

I mentioned earlier that CBO estimates about 37 percent of retirees who now are covered by health plans under their employer health coverage would no longer receive drug coverage because those employers would drop coverage. Or, to say it differently, CBO estimates that, because the employer's contributions do not now count towards stop loss, about 11 percent of the seniors generally would lose their employer-sponsored health coverage.

As I mentioned, I share my colleague's desire to prevent the loss of employer-sponsored coverage; that is, to the extent possible. We have our work cut out for us because retiree coverage is already on the decline. According to the Kaiser Family Foundation/Hewitt Study, that was released last December, one in five large employers is likely to eliminate retiree health coverage for future retirees in the next 3 years.

That is a lot. That is irrespective of the provisions of this bill with respect to prescription drug coverage. If one out of five large employers in fact does eliminate retiree health coverage for their retirees within the next 3 years, it is going to have a huge impact, clearly, on those retirees, and also on the portion of the health care system that is not paid for by larger companies.

That study also found that nearly 80 percent of large employers are likely to increase the amount paid directly by their employees for health care. That is, most—four-fifths of all employers—are likely to have their employees pay more than they, the employers, are paying. We know about the negotiations between General Electric and its employees not too long ago, where both agreed to shift more of the rising cost of health care to employees. Clearly, we should be doing all we can to ensure that a bad situation does not get worse.

The chairman of the committee, Senator GRASSLEY, and I have been looking for ways to address concern about employer-sponsored coverage. We are looking at ways to make employers' participation in the new Part D benefit more manageable, so employers have flexibility with respect to the offering of these benefits. I, certainly, personally am willing to entertain proposals that would allow more employer coverage, and also help address the out-of-pocket situation the Senator from West Virginia would like to cover with his amendment.

The slight problem we have, as most of us know, is that we are working within the confines of $400 billion over 10 years. If the amendment offered by the Senator from West Virginia were to be agreed to, according to CBO, that would cost approximately $65 billion. That is $65 billion, generally, over the $400 billion that has been set aside for this bill. Senator GRASSLEY and I are working with various groups in and out of the Senate, trying to address the potential loss of employer retiree coverage. It is a great concern of ours. There have been several proposals offered as to how we might deal with that, in addition to the ones contained in the amendment by the Senator from West Virginia. I am hopeful that during the next several days, before the final passage of this bill—hopefully before the weekend—we will be able to significantly address this issue. So far, we do not have it nailed down. But as you might expect, this and a lot of other issues are kind of hovering about as we try to find ways to fit the pieces together so we can get a very good bill passed.

I also remind my colleagues who are slightly concerned about the complexity of this bill—and this bill is somewhat complex—there was an interesting piece in, I think it was today's New York Times; it might have been yesterday's. In any event, it was about the complexity of the bill and how bewildered some people are because of the complexity. I think the article did a good job in explaining why major social policy, almost by definition, is complex; that is, it is a result of compromises.

In this case, the big compromise is between about half of this body, who wants to provide prescription drug benefits under Medicare, and about half of this body, who wants prescription drug benefits to be provided under private competition. It is difficult to put those two pieces together. It is the attempt to put those two pieces together that has caused a lot of the complexity that does exist in this bill.

I might say, however, that Medicare itself is already quite complex. They could come back and say: Why make something complex even more complex? But it has to be weighed against another factor. That is, do we want to provide a prescription drug benefit to seniors or not? The choice at the end of this week is going to be, do we want something that is a little bit complex but provides prescription drug benefits for seniors—and does a good job doing so? Maybe with not as many benefits as

some seniors would like and some Members of this body would like, but still does a pretty good job and is a bit complex. Or, on the other hand, do we want to do nothing? Do we want to let senior citizens today, who do not have prescription drug coverage, remain without coverage? That is basically the question we are going to be facing later on this week.

To ask the question, I think, is to answer it. Namely, we should do a pretty good job, trying to get a pretty good bill passed, even though there is some complexity, even though there are some tradeoffs, rather than have nothing.

I suspect this body is always going to be somewhat split. I do not think one party is going to be totally in control at one time or the other party is going to be totally in control at another time. I think it is the nature of the American body politic that people want to hedge their bets, that they want to have both Democrats and Republicans working together. Certainly, our Founding Fathers set up our Government that way under our Constitution. They absolutely distrusted power. They distrusted it almost absolutely. That is why we have power dispersed by definition. That means in order to get something of consequence passed, there is going to have to be some compromise. In this bill there certainly is a lot of compromising.

A final point contained in that article—and I thought it was a pretty good article—is that when we, in this country, have passed other major social policy—let's say Medicare and Social Security—it has been based somewhat on faith, and we have worked to fix it, to make it even better after it has been passed. But you have to start somewhere. And I think, certainly, we have to start somewhere with respect to prescription drug benefits, and certainly, we should provide prescription drug benefits for seniors.

So I urge my colleagues to keep that in mind as we are working on amendments, which are designed to make this bill better. We can accept some amendments, but some in this body will not accept others. Nevertheless, all of us are generally working together toward the same goal.

In that vein, Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside so the Senator from Hawaii may offer two amendments in sequence.

The PRESIDING OFFICER (Mr. SUNUNU). Is there objection?

Without objection, it is so ordered.

The Senator from Hawaii.

AMENDMENT NOS. 980 AND 979

Mr. AKAKA. Mr. President, I rise today to offer amendment No. 980 to restore Medicaid and State Children's Health Insurance Program eligibility for children and pregnant women who are citizens from the Freely Associated States and reside in the United States lawfully. The United States entered into a Compact of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands in 1986, and with the Republic of Palau in 1994.

The political relationship between the United States and the FAS is based on mutual support. In exchange for the United States having strategic denial and a defense veto over the FAS, the United States provides military and economic assistance to the RMI, FSM and Palau with the goal of assisting these countries in achieving economic self-sufficiency following the termination of their status as U.N. Trust territories. Pursuant to the Compact, FAS citizens are allowed to freely enter the United States and are not considered immigrants.

Legal immigrants and FAS citizens lost many of their public benefits as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. I appreciate the work done by my colleague from Florida, Senator GRAHAM, to restore the eligibility for Medicaid and SCHIP for legal immigrants who are children and pregnant women.

The language that has been included in S. 1, the Prescription Drug and Medicare Improvement Act, would give States the option to provide this coverage and allow them to use Federal resources to do so.

However, the current text does not restore these benefits to citizens from the FAS lawfully residing in the United States. Arguably, FAS citizens have strong ties with the United States as they come from the countries that are perpetually bound to the United States in free association.

It is important for Congress to restore these benefits for FAS citizens that were taken away from a relatively small but important population. The Congressional Research Service estimates that 11,500 FAS citizens have migrated to the United States since the Compact was enacted. They have come to the United States to seek economic opportunity, education, and access health care.

The State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands have supported FAS citizens with necessary health care services, but not without significant and increasing costs. The Federal Government must provide matching resources to help States meet the health care needs of FAS citizens and to meet the obligations of the Federal commitment.

I urge my colleagues to support this amendment to restore a portion of the benefits that were taken away from FAS citizens in 1996.

Mr. President, I have another amendment, amendment No. 979, to offer to S. 1.

The PRESIDING OFFICER. Does the Senator wish to offer both amendments?

Mr. AKAKA. The amendments are at the desk.

The PRESIDING OFFICER. The Senator will be advised, neither amendment has been reported by the clerk.

Without objection, the clerk will report both amendments.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA] proposes amendments numbered 980 and 979.

Mr. AKAKA. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT 980

(Purpose: To expand assistance with coverage for legal immigrants under the Medicaid program and SCHIP to include citizens of the Freely Associated States]

On page 636, line 16, insert ''and citizens of the Freely Associated States, which include the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, lawfully residing in the United States'' after ''Act''.

AMENDMENT 979

(Purpose: To ensure that current prescription drug benefits to medicare-eligible enrollees in the Federal Employees Health Benefits Program will not be diminished)

At the appropriate place, insert the following:

SEC. . NEGOTIATIONS BY THE OFFICE OF PERSONNEL MANAGEMENT.

The Office of Personnel Management may not negotiate a prescription drug benefit for any health benefits plan under chapter 89 of title 5, United States Code, that would provide a prescription drug benefit to a medicare eligible enrollee in that plan that is of lesser actuarial value, based on 2003 constant dollars, than the prescription drug benefit available to a medicare eligible enrollee of such plan on the date of enactment of this Act.

Mr. AKAKA. Mr. President, amendment No. 979 would ensure that the Federal Employees Health Benefits Program could not reduce the level of prescription drug coverage available to Medicare-covered Federal civilian annuitants. I thank my colleague from Maryland, Senator MIKULSKI, for cosponsoring the amendment.

I strongly support the creation of a prescription drug benefit for Medicare beneficiaries. Thirty-eight percent of Medicare beneficiaries report that they do not have prescription drug coverage. Far too many seniors are unable to afford the medications that they need, and the establishment of a prescription drug benefit will provide much needed access to medications that our seniors desperately need.

However, the Congressional Budget Office believes that Medicare drug coverage authorized by this bill is likely to act as an incentive for employers to drop their employer-sponsored drug benefits. An estimated 37 percent of retired workers with employer-sponsored drug benefits could lose their coverage under this bill according to CBO. I am troubled that older Americans who already have earned coverage through an employer-sponsored plan could lose their existing benefits. We have seen over the past few years that there has been a disturbing trend of reducing benefits for retirees. Creating this voluntary benefit could only accelerate this trend.

The intent of the legislation is to expand prescription drug coverage for seniors, not merely to shift the financial burden of existing coverage to the Federal Government. If Medicare beneficiaries lose their employer-based coverage, they may have to pay more for a Medicare drug benefit that provides less comprehensive coverage.

We must encourage employers to maintain their current coverage, and I will support efforts to do so. We should not shift the existing costs of prescription drug coverage to the Medicare program. If this occurs, there will be fewer resources available to pay for the medications of those who currently need insurance.

My amendment will ensure that present and future Federal retirees retain their current level of prescription drug coverage. They should not face a situation in which they must rely on Medicare. My amendment requires the FEHBP to preserve current-level drug coverage for Federal retirees and survivors. The Government health care plan stands as a model employer-sponsored health care plan, and my amendment protects the Nation's Federal annuitants and their survivors. Accepting this amendment sends a message to other employer-sponsored plans that the Federal Government stands behind its commitment to retired workers.

I ask unanimous consent that letters from the National Association of Retired Federal Employees and the National Treasury Employees Union in support of my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NATIONAL TREASURY EMPLOYEES UNION,
June 23, 2003.

RE: S.1, Medicare Drug Proposal

DEAR SENATOR: On behalf of the more than 150,000 federal employees and retirees represented by the National Treasury Employees Union (NTEU), I am writing concerning S.1, legislation to provide prescription drug coverage under Medicare.

NTEU believes legislation to provide prescription drug coverage for Medicare beneficiaries is long overdue, however, we have serious reservations concerning the way that this benefit has been structured. The proposed new benefit would provide a substantially less valuable benefit to Medicare beneficiaries than many private sector employers already provide for their retirees. Employers must not be permitted to diminish the prescription drug coverage they provide to former employees as a result of passage of this new Medicare benefit. Although we do not believe that is the intent of this legislation, steps must be taken to prevent this unintended consequence from occurring.

The federal government provides health insurance benefits, including prescription drug coverage, to its employees and retirees through the Federal Employees Health Benefits Program (FEHBP). Any proposal that would encourage, or result in, the federal government moving away from its commitment to its employees and retirees in this area would be strongly opposed. The fact that the Congressional Budget Office has reported that as many as 37 percent of retired workers would lose their employer-provided drug coverage as a result of passage of S.1 provides serious cause for concern.

Senator Akaka plans to offer an amendment that seeks to address this issue. His amendment would prohibit the Office of Personnel Management (OPM) from negotiating a prescription drug benefit for Medicare-eligible FEHBP enrollees that is less valuable than the benefit available to those enrollees on the date of enactment of the pending Medicare drug proposal. The Akaka amendment makes sense and is consistent with the intent of the Medicare legislation—that employers already providing prescription drug benefits to their retirees continue to offer their existing benefits packages.

Our goal is two fold: to provide Medicare beneficiaries with the best possible drug benefit while at the same time ensuring that retirees who enjoy prescription drug coverage through employer-sponsored plans retain that coverage. I urge your support for the Akaka amendment.

Sincerely,

COLLEEN M. KELLEY,
National President.

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
Alexandria, VA, June 24, 2003.

Hon. DANIEL K. AKAKA,
Senate Office Building,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of the 400,000 member National Association of Retired Federal Employees (NARFE), I am writing to endorse your amendment to S. 1, the Prescription Drug and Medicare Improvement Act of 2003, that would ensure that the Office of Personnel Management (OPM) could not reduce the level of Federal Employees Health Benefits Program (FEHBP) prescription drug coverage currently available to Medicare-covered Federal civilian annuitants through negotiations with participating carriers.

NARFE strongly supports the creation of a Medicare drug benefit for our senior citizens who have no drug coverage. But at the same time, we want to ensure that no harm is done to older Americans who already have earned such coverage through an employer-sponsored plan. As you know, the Congressional Budget Office estimates that 37 percent of retired workers with employer sponsored drug benefits could lose it under S. 1.

The CBO believes that Medicare drug coverage authorized by this bill could act as an incentive to employers to drop their employer-sponsored drug benefits. If that occurred, retirees would be forced to pay an additional monthly premium for a Medicare drug benefit that would be limited and more costly than what is currently available through many employer-sponsored health plans, including the FEHBP. The last thing Medicare reform should do is encourage employers to break promises made to their retirees regarding their earned health security.

While the Medicare reform bill that is eventually enacted may provide subsidies and tax credits to private employers who retain existing drug benefits for their retirees, such incentives would not apply to the Federal government, and thus provides no guarantee of the FEHBP drug benefit for the government's own annuitants. If FEHBP is the model for this reform, the Federal government itself must not drop or reduce drug benefits for FEHBP enrollees. Your amendment recognizes this principle of fairness and would help to ensure that S. 1 does no harm to those men and women who have served and continue to do so much for our nation. NARFE commends you for valuing the importance of the earned health security of the more than 4 million Federal workers and annuitants and we give our strongest endorsement to your amendment.

Sincerely,

CHARLES L. FALLIS,
President.

Mr. AKAKA. Mr. President, I urge my colleagues to support my amendment and look forward to working with them to ensure drug coverage for retirees under other plans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that all pending amendments be temporarily set aside so the Senator from Arkansas may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

AMENDMENT NO. 981

Mr. PRYOR. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 981.

Mr. PRYOR. 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 provide equal access to competitive global prescription medicine prices for American purchasers)

At the appropriate place, add the following:

SEC. ___. EQUAL ACCESS TO COMPETITIVE GLOBAL PRESCRIPTION MEDICINE PRICES FOR AMERICAN PURCHASERS.

(a) DEFINITION OF COVERED PRODUCT.—In this section, the term ''covered product'' has the meaning given the term in section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

(b) PROHIBITION.—It shall be unlawful for the manufacturer of a covered product or any other person that sells a covered product to refuse to sell to any wholesaler or retailer (or other purchaser representing a group of wholesalers or retailers) of covered products in the United States on terms (including such terms as prompt payment, cash payment, volume purchase, single-site delivery, the use of formularies by purchasers, and any other term that effectively reduces the cost to the manufacturer of supplying the drug) that are not substantially the same as the most favorable (to the purchaser) terms on which the person has sold or has agreed to sell the covered product to any purchaser in Canada.

(c) ENFORCEMENT.—The Secretary of Health and Human Services, or any wholesaler or retailer in the United States aggrieved by a violation of subsection (b), may bring a civil action in United States district court against a person that violates subsection (b) for an order—

(1) enjoining the violation; and

(2) awarding damages in the amount that is equal to 3 times the amount of the value of the difference between—

(A) the terms on which the person sold a covered product to the wholesaler or retailer; and

(B) the terms on which the person sold the covered product to a person in Canada.

(d) EFFECTIVENESS OF SECTION.—This section takes effect on the date that is 2 years

after the date of enactment of this Act, except that this section shall not be in effect during any period after that date in which there is in effect a final regulation promulgated by the Secretary of Health and Human Services permitting the importation or reimportation of prescription drugs under section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

Mr. PRYOR. Mr. President, I rise to address the Chamber about my proposed amendment that fits very neatly with an amendment that passed last week 62 to 28. It is a fallback amendment to that Dorgan-Cochran proposal.

The way I view this amendment—I hope the way my colleagues will understand it—it is really an antiprice gouging amendment as we go through the process and hopefully add a prescription drug benefit to Medicare that so many people in the country want and deserve.

We all know the stories about drugs that are produced in this country that are made at certain plants and certain places. And when they leave the plant, one truck will go to one of our home States and the other truck will go to Canada. Unfortunately, what happens all too often is when the drugs get to Canada, they are about one-half or one-third or one-quarter the price that people can buy those drugs in the United States. In my opinion, there is no valid reason for that. There is no valid justification for those drugs to be priced in that way.

We also know the Senate has tried to address this problem on at least a couple occasions—in the year 2000 and in the year 2002. This very Chamber voted to allow the reimportation of pharmaceuticals from other countries. Of course, the reimportation of drugs would be FDA-approved drugs coming out of FDA-approved facilities. In fact, for the third time in 4 years, the Senate voted this past Friday to allow the same thing.

Currently, the law is reimportation can come from a list of countries. There is a designated list. That has been somewhat cumbersome. And the FDA has not seen fit and has not been able yet to approve this process because they can't certify or verify that the drugs are safe. One thing I like about the Dorgan-Cochran amendment is it limits the scope of reimportation only to Canada. That is a significant advancement because we all know that Canada has very high medical standards and that they are very concerned about their populous and the veracity of medication in their society.

My proposal also is limited just strictly to Canada. One advantage is that they have a very similar, almost identical set of standards for handling drugs to make sure that there is a chain of custody, proper testing, et cetera. They build in the safeguards just as we do. A lot of countries don't do that. But with Canada we have a certain degree of confidence—maybe not absolute; I guess you can never have an absolute degree of confidence—that drugs are going to be safe. We have a very high degree of confidence that the drugs will, in fact, be safe and they will meet U.S. standards.

Let me briefly address my amendment. It is only three pages—very simple, very straightforward. In terms of the definition of covered product, we adopt the existing law. Therefore, there is no surprises, no monkey business or games played with the definition. When it comes to the prohibition in section B, which is found on page 2 of the amendment, in summary—I will delete all the commas and the parenthetical phrases, but in summary it says: It shall be unlawful for the manufacturer of a covered product to refuse to sell to any wholesaler or retailer—and that is key—on terms that are not substantially the same as that of any purchaser in Canada.

Let me run through that very quickly, if I may. One of the keys is that it is for wholesalers and retailers. What that means is that wholesalers and retailers in this country can reimport from Canada.

We all know if our local pharmacist could somehow work out an arrangement with wholesalers and retailers in Canada, they could actually buy the products in Canada, have them shipped to the United States, and sell them cheaper here than they can buy them wholesale in this country.

One of the keys is that American wholesalers and retailers are subject to all the FDA rules and regulations and requirements.

Therefore, this amendment will only allow the reimportation of safe FDA-approved products made at FDA-approved facilities. When it comes to enforcement, this amendment would allow the Secretary of Health and Human Services, as well as any wholesaler or retailer in this country that is aggrieved by some unfairness—the thing I like about that and I hope my colleagues understand—it allows both the Government sanction, the ability to enforce this, but also the free market. We all know the free market works very well, and when a free market can regulate itself, I think we are all better off. It has the ability for the Government to enforce this if necessary.

In the last bit, on page 3 of the amendment, it deals with the timeframe. That is a 2-year provision from the enactment of this act that this will take effect. In other words, the way this works is, once we pass this legislation, the President signs it, it becomes effective 2 years after it is enacted. Then it will trigger this act if the FDA has not issued its final regulations. Then we will be able to purchase these drugs at the same prices they get in Canada. In other words, it is an antiprice-gouging mechanism that I think is critical to this legislation and to its long-term success.

I very much applaud the leadership in this Chamber, especially coming from Chairman GRASSLEY and Senator BAUCUS, Senator FRIST, Senator KENNEDY, Senator DASCHLE, Senator GRAHAM, and, of course, Senators DORGAN and COCHRAN have shown leadership not just on this issue but on prescription drugs generally. I thank them for getting this to the Senate floor and allowing this very important debate and allowing these important amendments to be considered.

I do believe very strongly that when the bill came to the floor, it was a bill definitely worth our consideration. But I also think and believe very strongly that the bill has improved since it has been on the floor. I think these amendments are making the bill stronger and better for the American public.

For example, the Enzi amendment, which I like quite a bit, makes sure that people will still have access to use their local pharmacists. Not only are many pharmacists pillars of the community, not only do they do great things in their communities, but so often patients getting prescription drugs need to talk to their pharmacist about drug interactions, expiration dates, and details of how to take it. It is very important for the effectiveness of the drug that people talk to a local pharmacist and have access thereto. So I thank Senator ENZI for doing that.

The Gregg-Schumer-McCain-Kennedy amendment closes loopholes to allow name-brand drug manufacturers to unfairly extend their monopolies and overcharge American patients. This has been going on for a long time and it is something, when I was Attorney General, we worked on very hard to try to stop from the litigation standpoint. But now Congress has taken action, and I am so pleased that they are stopping this legislatively.

We have mentioned the Dorgan amendment, with the Cochran second-degree amendment, and how that has strengthened the bill and how, hopefully, that will cause prices to stabilize and, in fact, hopefully, come down over time. I think there is still some work to be done on this bill, and I think during the course of this week there will be a lot of great amendments to consider. I hope I can vote for some of those. When I believe it will make this bill better, I will support it.

Let me run through the chart very quickly. What we see is a graph with two lines. You can see that this lower line says ''health.'' If you were to look at the consumer price index, or one of the other indexes, it would be even lower than this green line, but it would go up slightly. That is, of course, the inflation rate, and it goes up 2, 3 percent a year.

Right here, we see the health care costs. If you go back to 1994—our baseline year—the price, the cost of health care, in just these 7 or 8 years has gone up 63.6 percent. One thing we all hear from our constituents is how much health care costs are increasing. For a lot of people, they have increased 10, 15 percent—sometimes more—a year. It is strangling people.

If you look inside the numbers and you look at the No. 1 cause of health

care costs going up, it is the cost of prescription drugs. That is what this red line indicates. Again, you can see the rapid growth that is outpacing the costs of health care and inflation, and it is pulling health care costs up and in a very dramatic fashion. I think pretty much everyone who has looked at this nationally agrees that it is the high cost of prescription drugs that is the primary reason—there are other factors—why health care costs are going up so dramatically.

In this proposal—not in my amendment but in the actual bill—we are talking about having a $250 deductible and a stop loss protection that kicks in, paying 90 percent of drug costs after $3,700 of out-of-pocket spending. Well, one thing the American public needs to understand, and all of us Senators need to remember, is that these are percentages and they will go up as the costs of prescription drugs go up. So one thing we need to be very mindful of is, as we watch this red line, the top numbers on this particular chart, go up—in fact, CBO says about 12 percent a year, and they are taking average numbers. They have been going up more than 12 percent per year in the last few years. If we say more than 12 percent a year, after 5 years that deductible of $250 becomes a deductible of $485. In fact, the stop loss threshold goes from $3,700 to $6,521. Both of these adjust based on cost of prescription drugs—not based on the cost of health care or on the cost of an increase in inflation but based on the cost of prescription drugs. What that means is that in 10 years the deductible will go to $854, and the stop loss in 10 years will be $11,492.

Now, what this amendment is designed to do is to try to get ahold of these runaway costs of prescription drugs. As long as these numbers go up like this, the problems in this bill—things that we as Senators don't like about this bill, like the gap in coverage, the deductibles, and the stop losses—are going to get worse. It is going to do nothing but get worse over time.

So what this amendment and what the Dorgan-Cochran amendment are designed to do is to try to somehow keep prescription drug costs down in a very reasonable way. That is why reimportation is so critical because reimportation, in the strange world of prescription drugs, introduces competition into the marketplace. Suddenly, the drug costs here are competing with the drug costs in Canada, and what that will result in, necessarily, is lower drug costs if free market principles are allowed to apply.

While I am 100 percent convinced the administration can and should implement Senator DORGAN's and Senator COCHRAN's amendment, I am not 100 percent sure they will do it. Recently, we received a letter in the Senate from the FDA from one of the Commissioners, Mr. McClellan. Let me quote, if I may, from Mr. McClellan's letter. I may have to put on my reading glasses to do this because that is what happens when you get old, Mr. President. I know I am quite a bit older than the occupant of the Chair. When you get my age, you need these.

THIS is a letter to Senator THAD COCHRAN, and it is from Mark B. McClellan, FDA Commissioner, sent earlier this month, on June 19, 2003. It says:

> The overall quality of drug products that consumers purchase from the United States pharmacies is very high, and the American consumer can be confident that the drugs they use are safe and effective.

That is a key point because we have a very safe marketplace for drugs. In fact, one of the things I did when I was attorney general of my State—and I left there 6 months ago—I sent out periodical consumer alerts to Arkansans about being very careful about buying drugs over the Internet, using mail order companies, and toll-free numbers because sometimes, under some circumstances, you are not sure what you are getting.

We always advise people to be very careful when they do that. I have a bias and a preference for using a local pharmacist.

Let me continue. I am skipping around:

> In FDA's experience, many drugs obtained from foreign sources that either purport to be or appear to be the same as U.S.-approved prescription drugs are, in fact, of unknown quality.

That is something we found in the attorney general's office in Arkansas when I was there.

The letter goes on to say:

> These outlets may dispense expired, subpotent, contaminated, or counterfeit products, the wrong or contraindicated product in an incorrect dose or medication unaccompanied with adequate direction for use. The labeling of the drug may not be in English and important information regarding doses and side effects may not be available. In addition, the drugs may not have been packaged and stored under proper conditions to avoid degradations.

That is true. That definitely happens. We have seen that time and again around this country. But that is one of the great points about the Dorgan amendment. In fact, the Dorgan amendment that was adopted last week with 62 votes has a provision—I am not going to read it all—on page 3 that makes it very clear that we can only reimport FDA-approved drugs at FDA-approved facilities. There has to be documentation; there has to be testing. The safeguards are there.

Also what Mr. McClellan is talking about here is a very serious problem, but by the very same standards he is referring to in his letter, he cannot guarantee that American drugs are safe because we all know in the marketplace there are some problems—a very small percentage in the United States but there are some problems. He goes on to say FDA cannot guarantee the safety of Canadian drugs. As I said, really in a true sense, we cannot guarantee the safety of American drugs either, but the FDA does a very good job.

Interestingly enough, my staff, as we were preparing to be here this afternoon, went on Lexis-Nexis and did a search to find all the reported cases in recent years from Canada related to counterfeit drugs. They could not find one case, one newspaper article, one incident, anything that was reported about counterfeit drugs in Canada. That is using the Lexis-Nexis search. The truth is, we found a number of those in the United States, but we did not find any in Canada.

Lastly, Mr. McClellan's letter to Senator COCHRAN says:

> At this time, the agency simply cannot assure the American public that drugs imported from foreign countries are the same as products approved by the FDA and that they are safe and effective.

Again, our bill fixes this problem because my amendment, along with Senator DORGAN's and Senator COCHRAN's amendment, says it only applies to FDA-approved drugs and it is only from Canada. We have a much more confident sense about the Canadian marketplace for prescription drugs than we do about a number of other countries.

Back when President Bush was running for office in 2000, he had the same impression as most of us when we think about this issue for the first time. He said ''it made sense'' to allow prescription drugs that were sold overseas to come back. I think he was right about that. It does make sense, as long as we build in the proper safeguards. Again, I think the amendment Friday and my amendment today will do that.

Some say that doing anything to make prescription drugs more affordable will reduce investment in research and development. I disagree. There are many factors that go into research and development, and two of those—and I hope people understand this—two of the major reasons drug companies come here to do their research and development are:

First, we make a huge public investment through the NIH, the National Institutes of Health. They do a lot of the basic research that the drug companies then build on and actually produce prescription drugs.

Second, this country provides a research and development tax credit, and the drug companies take advantage of that, and they should. It is there for them to take advantage. That is why we have it. It is good for the country. It is good for the economy. It is good for our health. I am supportive of those tax credits.

But those are two taxpayer-funded—I do not know if you want to call them subsidies. Call them what you want but those are two taxpayer incentives for these big drug companies to do research and development: The huge public investment we make for NIH, and the research and development tax credit.

One item I read recently that is a little disturbing to me is that the research and development dollars by the

big pharmaceutical companies went up by 8 percent. That is good. It is good they are increasing their dollars for research and development. But did you know that their lobbying budget went up by 23 percent? Right now in this country, in this city, there are more lobbyists for the pharmaceutical industry than there are Members of Congress, and they have increased it another 23 percent. I am a little bit disturbed by that. My sense is, the only groups out there, as far as I know—maybe I am wrong; I have not seen anything to the contrary. As far as I know, the only groups out there opposed to reimporting safe drugs from Canada, FDA-approved drugs and FDA-approved facilities from Canada, the only group I know opposed to that is the pharmaceutical industry.

I read a recent story in the New York Times that said somewhere between $2 million and $2.5 million the pharmaceutical industry is giving out to research and policy organizations ''to build intellectual capital and generate a higher volume of messages from credible sources.''

We saw this happen many years ago with the tobacco industry. I give a little bit of caution here to the pharmaceutical industry. I hope they do not repeat some of what tobacco did that got them into so much trouble. Tobacco actually went out and funded sham research. They funded research that actually said tobacco was not harmful to their health when they knew it was and they had the research to say it was. They funded research to come out and say to the contrary, even though the research could not be validated. I certainly hope that is not what the pharmaceutical industry is doing today, but it sounds as if they are drifting in that direction.

It is definitely in the interest of the American public and of patients who need medical care in this country that we allow the safe importation of drugs from Canada. I think it will help people afford drugs, and it will help make drugs more affordable in this country.

As long as I am talking about the pharmaceutical industry, let me be very clear. I am proud of the pharmaceutical industry. I am proud of what they do. It is amazing some of the accomplishments we have achieved in medicine in the last 100 years. It is even more dramatic than the aeronautics industry. One hundred years ago, the Wright brothers launched at Kitty Hawk. Now, today, you know what we have been able to accomplish in the last 100 years.

The gains have been even more dramatic in the world of prescription drugs. It is amazing. It is critical for the United States to have an industry that is high tech, such as that industry, and that is on the cutting edge, is innovative, and is the world leader.

We want to try to be the leader in anything we can. I will continue to support NIH funding for research and development of prescription drugs. I think that is critical. I think that helps everybody. It is a win/win. It is not always cheap, but it is a win/win. It helps the industry. It helps the public. It helps medicine.

I will continue to support the tax credit for research and development. In fact, I am a cosponsor of a bill that will do that because I believe very strongly American business should have the incentive to invest in research and development because it helps the economy so much in the long term.

I see the prescription drug industry as in a little bit different category than most industries because they have a patent. The fact is that the Federal Government gives them a patent—another word for that would be a ''monopoly''—the Federal Government gives them a monopoly for a certain number of years to sell their drugs, but implicit in that monopoly is a public trust.

I think it is incumbent upon the people who hold those patents and the companies which hold those patents that they understand they have a special relationship with the public, because nothing less than the public's health is at stake.

Also, when I am looking at the pharmaceutical industry, I have to observe what Fortune Magazine came out with in the last I think it has been 3 or 4 years running now, that there are three different ways to measure the profitability of an industry. All three ways it is measured, the pharmaceutical industry by any standard is the most profitable industry in America.

The other thing about these companies is we talk about them as if they are our own companies but in fact many of them—maybe the majority, the big guys—are actually foreign corporations doing business in America. Most of these big companies are huge conglomerates that have different divisions and product lines. We need to remember most of these are global companies. They are doing research all over the world and they are selling these drugs all over the world, not just to the American marketplace. I think it is important we not segment the American marketplace at the expense of everything else.

I will talk about three of my experiences as attorney general for Arkansas. I know there are 49 other attorneys general who have had similar experiences, but these were important experiences I had with the pharmaceutical industry. Again, I am proud of the industry. I am very supportive of some of the things they do, but when I was attorney general we had one case where we found out they had secured a monopoly on certain key ingredients to two or three drugs. Without these key ingredients the drugs could not be made, and even the generic companies were buying these key ingredients from this one manufacturer. They purchased that manufacturer and before long, guess what, generic drugs went up because the name-brand company was jacking up the prices to the generics. That is not fair. That is not right. That is not allowing the marketplace to work in the way it should.

We had another case where a pharmaceutical company out and out lied about research. They told the Government they had tests that showed their name-brand product was better than the generic product. Another test came in later and showed they were absolutely the same. Unfortunately, for a number of years they were able to charge more for their product, much more than the generic, because people were convinced the generic was not as good.

When I was attorney general, we found there were a few companies that were playing games with the patent laws and with the FDA regulations and through various maneuvers they were able to extend the life of their patents and monopolies. Again, I did not come to name names and embarrass companies for some of the wrongdoings. I will be glad to visit with any Senator individually who would like to talk about these things. The pharmaceutical industry is a great industry overall. It does great things and I am very supportive of most of the things they do, but sometimes we have to call it like we see it. They do not always come into this debate with the cleanest of hands.

In my amendment, I am proposing a 2-year period of time in which to allow the Health and Human Services Department to establish their regulations in final form. I believe that is ample time. In fact, if it were up to me I would give them 30 days, but I think realistically they need time to verify and certify that the Canadian market is safe. I think they have actually been working on this since the year 2000. The fact the Dorgan amendment passed last week will really narrow their focus. Now that they only have to focus on Canada, I think that will help them quite a bit to bring veracity to these tests and to the marketplace.

Again, my proposal would not take effect if the regulations are finalized, and even if it does take effect in 2 years and then the regulations are finalized at a later time, mine immediately goes out of effect. What it would, in effect, do is make sure we are not paying more for drugs in America than they are in Canada. That is really not too much to ask, considering the U.S. Government will be far and away the largest purchaser of prescription drugs in the world.

The amendment says if the FDA has not implemented reimportation within 2 years of implementation of this law, it will become illegal for drug manufacturers to discriminate against American purchasers compared to our Canadian counterparts. Really, that is what it is all about. It is about price discrimination. I said a few moments ago it is about price gouging. If the prices are justified in Canada, then they are justified here, and we need to

make sure we get a price we are comfortable with.

In closing, I say that the consequences of not protecting American patients are too high. Uninsured patients cannot afford the prescription medicines they need today. Drug prices are fueling health care costs in a way we have seen on that previous chart. One thing we see time and time again is employers dropping health care coverage because they cannot afford prescription drugs. The skyrocketing drug costs have a tremendous potential to make the Medicare coverage we are considering erode significantly over time. What I mean by that is, as these deductibles go up, as the stop losses go up, as the gap in coverage widens, this proposed prescription drug benefit is going to make less sense over time because it is going to have so many problems.

Lastly, I want to show my colleagues this chart. We have seen bits and pieces of this already in this debate from last week, but in the first column this chart lists I believe it is nine of the most popular drugs in this country. It lists what they are used for. There are a lot of folks who are looking at this list and seeing big name-brand drug names. They probably use these drugs. Probably a lot of people in this Chamber use these drugs. This column shows what they are used for and then this third column is really critical. It is the U.S. price. It is what people pay in the U.S.

We are basing this on some Web sites. We know these are prices that can be charged here. This next column shows the price in Canada, what we know they can be charged there because we looked at Web sites that sell them. We can see the big difference on every single one of these nine drugs. The drug in Canada is much cheaper—in fact, 39 percent cheaper, 33 percent cheaper, on down the line. This one is 43 percent cheaper in Canada.

Bear in mind that a lot of these drugs are made in the very same plants. They are made in the very same places. One drug goes up to Canada and the other goes to Arkansas, Texas, Georgia, or wherever it may be. These are the very same drugs coming out of the very same plants. They meet all the same standards. In Canada, they are a lot cheaper.

What we are trying to do is get these prices in this column to go down to be a lot closer to the price in the Canadian column. It is not only good for the citizens but good for the taxpayers because as we add this prescription drug benefit we want to see these lower prices because that means tax dollars will go a lot further, and we, as a Nation, will be able to provide many more drugs through Medicare than we otherwise could.

I ask the Senate very respectfully to support this amendment to simply ensure Americans are treated fairly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be set aside so the Senator from New Mexico can offer three amendments in sequence.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. 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. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 984

Mr. BINGAMAN. Mr. President, I send an amendment to the desk 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. BINGAMAN] proposes an amendment numbered 984.

Mr. BINGAMAN. Mr. 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 carve out from payments to Medicare+Choice and MedicareAdvantage organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care)

At the end of subtitle C of title II, add the following:

SEC. ___. CARVING OUT DSH PAYMENTS FROM PAYMENTS TO MEDICARE+CHOICE AND MEDICAREADVANTAGE ORGANIZATIONS AND PAYING THE AMOUNTS DIRECTLY TO DSH HOSPITALS ENROLLING MEDICARE+CHOICE AND MEDICAREADVANTAGE ENROLLEES.

(a) REMOVAL OF DSH PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

(1) UNDER MEDICARE+CHOICE.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3) and as amended by section 203) is amended—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)'',

(B) by adding at the end the following new subparagraph:

''(E) REMOVAL OF PAYMENTS ATTRIBUTABLE TO DISPROPORTIONATE SHARE PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For each year (beginning with 2004), the area-specific Medicare+Choice capitation rate under subparagraph (A)(ii) shall be adjusted to exclude from such rate the portion of such rate that the Secretary estimates is attributable to additional payment amounts described in section 1886(d)(5)(F) (treating hospitals reimbursed under section 1814(b)(3) as if such hospitals were reimbursed under section 1886).''.

(2) UNDER MEDICAREADVANTAGE.—Section 1853(a)(5) (as amended by section 203) is amended by adding at the end the following new subparagraph:

''(C) REMOVAL OF PAYMENTS ATTRIBUTABLE TO DISPROPORTIONATE SHARE PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For each year (beginning with 2004), the area-specific Medicare+Choice capitation rate under subparagraph (A)(ii) shall be adjusted to exclude from such rate the portion of such rate that the Secretary estimates is attributable to additional payment amounts described in section 1886(d)(5)(F) (treating hospitals reimbursed under section 1814(b)(3) as if such hospitals were reimbursed under section 1886).''.

(3) EFFECTIVE DATES.—The amendments made—

(A) by paragraph (1) shall apply to plan years beginning on and after January 1, 2004 and shall continue to apply to plan years beginning on and after January 1, 2006; and

(B) by paragraph (2) shall apply to plan years beginning on and after January 1, 2006.

(b) ADDITIONAL DSH PAYMENTS FOR MANAGED CARE ENROLLEES.—Section 1886(d)(5)(F) ((42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking ''clause (ix)'' and inserting ''clauses (ix) and (xvi)''; and

(2) by adding at the end the following new clause:

''(xvi)(I) For portions of cost reporting periods occurring on or after January 1, 2004, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital that is a disproportionate share hospital (as described in clause (i)).

''(II) For purposes of this clause the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with a eligible organization under section 1876 and who is entitled to benefits under part A and any individual who is enrolled with a Medicare+Choice organization or a MedicareAdvantage organization under part C.

''(III) The amount of the payment under this clause with respect to any applicable discharge shall be equal to the estimated average per discharge amount that would otherwise have been paid under this subparagraph if the individuals had not been enrolled as described in subclause (II).

''(IV) The Secretary shall establish rules for paying an additional amount for any hospital reimbursed under a reimbursement system authorized under 1814(b)(3) if such hospital would qualify as a disproportionate share hospital under clause (i) were it not so reimbursed. Such payment shall be determined in the same manner as the amount of payment is determined under this clause for disproportionate share hospitals.''.

Mr. BINGAMAN. Mr. President, this amendment deals with the issue of safety net hospitals. That is a label we have put on what are, in fact, called in the law Medicare disproportionate share hospitals, or DSH. The payments we make for DSH are intended to support these safety net hospitals. By adopting my amendment, we ensure we are not unintentionally reducing the payments to these safety net hospitals.

By ''safety net hospitals,'' in general terms, we are talking about hospitals that provide medical services to a great many individuals who do not have health care coverage. That is where the phrase ''disproportionate share'' comes from, saying they have a disproportionate share of the uninsured coming to their hospitals seeking medical treatment. We have set up a system through Medicare and also a separate system through Medicaid to provide additional funds to those safety net hospitals.

Since DSH payments are made as add-on adjustments to fee-for-service

reimbursements, those payments to hospitals are reduced as Medicare beneficiaries choose to enroll in private health plans and the money is instead logically wrapped into payments by the Federal Government to the private health plans.

We had some testimony before the Finance Committee. Tom Skully testified that he estimates enrollment in private health plans will increase from 10 percent, where it is today, up to 43 percent by the year 2008. Tom Skully, of course, is in charge of administering these programs. His opinion is extremely important in this debate.

If he is right, that would result in an average reduction in the Medicare DSH payments—that is, the payments to the safety net hospitals—of about 37 percent. Clearly, this is not the intent of Congress in this legislation. We are not setting out in this legislation, which is intended to provide a prescription drug benefit to seniors, to intentionally reduce the payments to safety net hospitals. The bill itself, in fact, increases DSH payments to rural safety net hospitals. That is a provision Chairman Grassley and the ranking member, Senator BAUCUS, and I very strongly support.

The Medicare Payment Advisory Commission, which advises the Congress on Medicare policy, has said in their report ''plans are overpaid''—private plans, they are talking about—''to the extent they do not pass on DSH payments to the appropriate hospitals.''

Congress recognized this program in the past and intentionally carved out graduate medical education, or GME, payments from health plans and made provisions so those payments would go directly to the teaching hospitals. That policy is included in S. 1, but unfortunately the disproportionate share payments were not addressed in the underlying bill.

Also, in the case of Medicaid, Congress required a carve-out of DSH payments under Medicaid to health plans in 1997 when Congress authorized the substantially greater use of managed care in the Medicaid Program. The intent was clear, that Congress did not want to unintentionally harm the safety net hospitals as they had more people move into Medicaid managed care.

We are essentially trying to do the very same thing here. The same recognition and the same policy should apply in the case of Medicare DSH payments that we applied in the case of Medicaid DSH payments.

Our Nation's important public hospitals lost an estimated $527 million in treating Medicare patients in the year 2001. That was with 88 percent of those public hospitals reporting losses on Medicare. They cannot afford additional Medicare cuts. That would be exactly what we would be enacting if we passed the underlying bill without including the amendment I provide here. Now is the time to protect and carve out the amendments intended to go to safety net hospitals to ensure they actually do go to the safety net hospitals even once this program is put in place.

I hope very much my colleagues will support this amendment. I hope it can be adopted and included in the legislation before it passes the Senate.

AMENDMENT NO. 972

Mr. President, I have another amendment numbered 972, and I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 972.

Mr. BINGAMAN. Mr. 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 provide reimbursement for Federally qualified health centers participating in medicare managed care)

At the end of title VI, insert the following:

SEC. ___. REIMBURSEMENT FOR FEDERALLY QUALIFIED HEALTH CENTERS PARTICIPATING IN MEDICARE MANAGED CARE.

(a) REIMBURSEMENT.—

(1) IN GENERAL.—Section 1833(a)(3) (42 U.S.C. 1395*l*(a)(3)) is amended to read as follows:

''(3) in the case of services described in section 1832(a)(2)(D)—

''(A) except as provided in subparagraph (B), the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs; or

''(B) with respect to the services described in clause (ii) of section 1832(a)(2)(D) that are furnished to an individual enrolled with a MedicareAdvantage plan under part C pursuant to a written agreement described in section 1853(j), the amount by which—

''(i) the amount of payment that would have otherwise been provided under subparagraph (A) (calculated as if '100 percent' were substituted for '80 percent' in such subparagraph) for such services if the individual had not been so enrolled; exceeds

''(ii) the amount of the payments received under such written agreement for such services (not including any financial incentives provided for in such agreement such as risk pool payments, bonuses, or withholds),

less the amount the Federally qualified health center may charge as described in section 1857(e)(3)(C);''.

(b) CONTINUATION OF MEDICAREADVANTAGE MONTHLY PAYMENTS.—

(1) IN GENERAL.—Section 1853 (42 U.S.C. 1395w–23), as amended by this Act, is amended by adding at the end the following new subsection:

''(j) PAYMENT RULE FOR FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—If an individual who is enrolled with a MedicareAdvantage plan under this part receives a service from a Federally qualified health center that has a written agreement with such plan for providing such a service (including any agreement required under section 1857(e)(3))—

''(1) the Secretary shall pay the amount determined under section 1833(a)(3)(B) directly to the Federally qualified health center not less frequently than quarterly; and

''(2) the Secretary shall not reduce the amount of the monthly payments to the MedicareAdvantage plan made under section 1853(a) as a result of the application of paragraph (1).''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraphs (1) and (2) of section 1851(i) (42 U.S.C. 1395w–21(i)(1)), as amended by this Act, are each amended by inserting ''1853(j),'' after ''1853(i),''.

(B) Section 1853(c)(5) is amended by striking ''subsections (a)(3)(C)(iii) and (i)'' and inserting ''subsections (a)(3)(C)(iii), (i), and (j)(1)''.

(c) ADDITIONAL MEDICAREADVANTAGE CONTRACT REQUIREMENTS.—Section 1857(e) (42 U.S.C. 1395w–27(e)) is amended by adding at the end the following new paragraph:

''(3) AGREEMENTS WITH FEDERALLY QUALIFIED HEALTH CENTERS.—

''(A) PAYMENT LEVELS AND AMOUNTS.—A contract under this part shall require the MedicareAdvantage plan to provide, in any contract between the plan and a Federally qualified health center, for a level and amount of payment to the Federally qualified health center for services provided by such health center that is not less than the level and amount of payment that the plan would make for such services if the services had been furnished by a provider of services that was not a Federally qualified health center.

''(B) COST-SHARING.—Under the written agreement described in subparagraph (A), a Federally qualified health center must accept the MedicareAdvantage contract price plus the Federal payment provided for in section 1833(a)(3)(B) as payment in full for services covered by the contract, except that such a health center may collect any amount of cost-sharing permitted under the contract under this part, so long as the amounts of any deductible, coinsurance, or copayment comply with the requirements under section 1854(e).''.

(d) SAFE HARBOR FROM ANTIKICKBACK PROHIBITION.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(G) any remuneration between a Federally qualified health center (or an entity controlled by such a health center) and a MedicareAdvantage plan pursuant to the written agreement described in section 1853(j).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided on or after January 1, 2006, and contract years beginning on or after such date.

Mr. BINGAMAN. As we proceed with this consideration of S. 1—and I believe firmly that it will be passed through the Senate this week—we need to be very careful not to create unintended consequences as a result of our legislation.

The previous amendment I discussed tries to head off some unintended and certainly undesirable consequences for safety net hospitals. This amendment tries to do the very same thing with regard to community health centers. Let me explain what this amendment does.

First, I am concerned about the implications that passing this underlying legislation as it now is pending in the Senate could have on the Nation's community health centers. Community health centers have enjoyed broad bipartisan support in Congress. They have enjoyed strong support from the President. The President and the Congress have committed to doubling the funding for community health centers over a 5-year period. That is an encouraging development. Health centers provide care to over 13 million people annually, nearly 1 million of whom are low-income Medicare beneficiaries. They receive section 330 Federal Public Health Service Act grant funds to support care for the uninsured and for low-income patients.

To ensure that those grant dollars are spent for the purposes intended, Congress has specifically taken action to ensure that both Medicare and Medicaid are fully reimbursing the health centers for the costs associated with the care those health centers provide to Medicare and Medicaid beneficiaries.

Simply put, funding intended for low-income and uninsured people should not be diverted and used to subsidize Medicare underpayments. Therefore, health centers are reimbursed by Medicare under a cost-based system.

The amendment I am offering, amendment No. 972, would simply extend this same requirement to the new Medicare Advantage Programs by ensuring that community health centers are provided with a wraparound, or a supplemental payment equal to the difference between the payments they now receive under Medicare generally and the payments they would receive from Medicare Advantage plans.

This concept is not new. In 1997, when Congress allowed States to dramatically increase the number of patients enrolled in Medicaid managed care, we recognized the potential impact on community health centers, and we required the Medicaid Program to provide this wraparound, or supplemental payment, for the difference between the managed care organization's payment and the health center's reasonable cost. We need to do the same thing here, with my amendment, in the Medicare Program.

According to testimony, again, from Tom Scully, which I referred to just a minute ago, the hearing we had in the Finance Committee indicated there are widely differing estimates for how many Medicare beneficiaries would actually enroll in private health plans. Those estimates range from 9 percent to 43 percent, a fivefold difference.

Dr. Holtz-Eakin's words were that:

> These are honest differences in trying to read a very uncertain future.

All of us want to reduce that uncertainty. If Mr. Scully is correct, then health centers will lose their guarantee of cost-based reimbursement to 43 percent of their Medicare patients, and that potentially will result in centers having to dip into their Federal grant funds, which is money that was intended to provide care to the uninsured to make up for losses to their Medicare patients.

The Nation's safety net is already a fragile one. We should take this action. We should adopt this amendment to ensure we are not jeopardizing that safety net even further by passing the underlying legislation without the amendment.

Again, this Congress and the President have made a commitment to these community health centers to deal with the growing number of uninsured in the country. In light of this, the amendment is, in my view, vital to the health of these health centers and ensuring the health centers are not forced to decide whether to subsidize the Medicare Program with their grant dollars or refuse to provide services to the 1 million Medicare beneficiaries to whom they currently provide those services.

Just as I indicated with the previous amendment, I think this will substantially improve the bill. I urge my colleagues to support this amendment, and I hope, when we come to consideration of it and a vote on it, that the Senate will endorse this amendment. It will avoid a consequence that I know is not intended by any of my colleagues here in the Senate.

I ask this amendment I have just been discussing, amendment No. 972, be set aside so I may off another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 973

Mr. BINGAMAN. Mr. President, I ask amendment No. 973 be called up for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. BINGAMAN], proposes an amendment numbered 973.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To amend title XVIII of the Social Security Act to provide for the authorization of reimbursement for all medicare part B services furnished by certain Indian hospitals and clinics)
>
> At the end of subtitle B of title IV, insert the following:
>
> **SEC. ____. AUTHORIZATION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.**
>
> (a) IN GENERAL.—Section 1880(e) (42 U.S.C. 1395qq(e)) is amended—
>
> (1) in paragraph (1)(A), by striking ''for services described in paragraph (2)'' and inserting ''for all items and services for which payment may be made under such part'';
>
> (2) by striking paragraph (2); and
>
> (3) by redesignating paragraph (3) as paragraph (2).
>
> (b) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after October 1, 2004.

Mr. BINGAMAN. Mr. President, this amendment deals with Indian Medicare Part B services. The Indian Health Service, of course, operates hospitals and clinics in various parts of the country, several in my State. Those hospitals and clinics provide health care to American Indians on or near reservations and to Alaska Natives. In many cases, those are hospitals and clinics that currently are unable to bill for all of the Medicare Part B services they are providing. In effect, the Indian Health Service under current law is subsidizing the Medicare Program because those services which would otherwise be paid for by Medicare, if it were a different provider other than the Indian Health Service—are having to be paid by the Indian Health Service itself.

I think we in the Senate are all aware that the Indian Health Service, year after year, has been substantially underfunded. In 2000, Indian Health Service hospitals and clinics were made eligible for services of physicians and certain other practitioners, but there were real limits put on the services that were provided. Specifically, they were denied payment, the Indian Health Service hospitals and clinics were denied payment for the following important items that I will call to the attention of my colleagues so they may realize what the Indian Health Service is not permitted to be reimbursed for in the current law: Durable medical equipment. This includes such items as wheelchairs, as well as blood testing strips, blood monitors for diabetes patients—which is a severe problem among Native Americans throughout this country.

The second item is home and some institution dialysis supplies and equipment. Since the prevalence of diabetes in the Native-American population and among Alaska Natives is three times the rate in the general U.S. population, Indian people experience a high rate of renal disease, including end-state renal disease. Clearly these are expenses, these are supplies, this is equipment that should be reimbursed.

Third, cancer screening.

Next, Pap smears, glaucoma screening, clinic and hospital-based ambulance services, prosthetic devices, covered vaccines, including hepatitis B, pneumococcal and influenza, chemotherapy and antigen drugs, and clinical laboratory services.

The amendment I am offering would simply make these Indian health facilities and providers eligible for payment for all of the Part B Medicare-covered items, and individuals, to the same extent other providers are eligible for payment for those supplies and services.

The amendment assures that Native Americans would have the same access to health services as any other American. If the Indian Health Service providers are unable to bill for those services, as they currently are, then the Indian Health Service budget shortfalls

wind up resulting in the rationing or delaying of treatment to many of our Native-American citizens. For some of these individuals, it means going out of the Indian Health Service system in order to get more prompt service because other providers, in fact, do get reimbursed and can get reimbursed on Medicare for providing those services.

Native Americans and Indian Health Service providers should not be subject to such barriers to care and to payment. Similarly, they should not be subject to such complexity as they are only prohibited from billing and receiving payment for certain services and not for others.

It needs to be noted that the Medicare Advantage payments are based in part on fee-for-service expenditures in the defined region. For those areas with large numbers of Native Americans—such as my State—payment rates are skewed downward if the Indian Health Service providers are unable to bill appropriately for the full range of services. We have lower reimbursement rates for Medicare in my State than many of the surrounding areas. One of the factors—not the only one, but one of the factors that is causing that is this problem I am trying to address with the amendment, the problem that the Indian Health Service is unable to be reimbursed. Accordingly, the amount Medicare is paying is skewed downward. Accordingly, that affects Medicare payments throughout the region.

There is absolutely no policy rationale for limiting the payment to the Indian Health Service hospitals and clinics for only certain of the Medicare Part B services.

I urge the Senate to end this unfortunate discrimination that has been built into the statutes under which we currently operate.

I hope, again, this amendment will be favorably acted upon by the Senate when it comes to a vote. I believe it will substantially improve the legislation and will correct an inequity that is in current law that needs to be corrected.

AMENDMENT NO. 933

Mr. President, let me at this point move to another amendment. We do not need to move off the current amendment, but I wish to discuss a different amendment that is pending that I am not calling up for a vote at this time but one I offered sometime earlier.

The amendment I wish to speak about briefly now relates to the assets test. It is a proposal I have made to repeal the assets test.

First, I compliment Chairman GRASSLEY and the ranking member, Senator BAUCUS, for making significant progress and improvement with respect to the low-income benefit as compared to similar legislation that was considered last year. The bill, although improving the low-income benefit and reducing the impact of the assets test, still leaves in place an assets test of just $4,000 for an individual and $6,000 for a couple.

This assets test has two very important consequences. By explaining these consequences, I think I will be able to explain what I mean by an ''assets test.''

First of all, for those who have incomes below the poverty level, if you own as much as $4,100 in a whole range of different assets combined—it can be savings accounts, bonds, savings bonds, burial plots, insurance policies, a car, the net worth of your car, livestock, whatever you happen to own—if the combined value of these categories adds up to $4,100, then your cost sharing under the bill increases and you do not get the full benefit of this low-income prescription drug benefit we are talking about as part of this legislation.

Your cost sharing under the bill increases by 400 percent if you fail this assets test compared to similarly situated low-income people. If your income is between 100 and 135 percent of poverty, then the assets test increases cost sharing by 200 percent; that is, you have to pay twice as much if, in fact, your total assets add up to more than $4,100.

The result is, Congress has effectively established a policy that encourages low-income seniors or people with disabilities to further impoverish themselves—that is, dispose of their property, sell their property off—in order to get the full benefit that is advertised.

What kind of sense does this really make, to ask low-income and vulnerable seniors and people with disabilities to get rid of the very minimal savings they have in order to get the full low-income benefit?

Let me talk about the other aspect of this that I think is particularly significant and needs to be discussed here. I think more and more, as people have been reading this legislation—this legislation goes on for more than 600 pages, so anyone who thinks we are doing something simple here by just giving people a prescription drug benefit has not spent the time to try to understand this legislation and read it.

One of the aspects of the assets test that is most troublesome is the enormously cumbersome and bureaucratic procedure we put in place that affects so many of our low-income seniors who want to benefit from this prescription drug benefit we are adding. Also, there is a very substantial invasion of people's lives involved. Let me explain that in a little more detail.

Any of you who do not think this is a complex, cumbersome, bureaucratic process we are setting up for low-income seniors, I urge you to just read the Pennsylvania 16-page application for low-income Medicare beneficiaries who want to qualify for assistance with premiums and copayments and deductibles that will also be the basis for qualifying for the low-income benefit in this bill. I question whether many of us in Congress would be able to fill out that application.

What I have on this easel is not the Pennsylvania 16-page application. This is a much shorter, so-called streamlined 4-page application from the State of Ohio.

To comply with the assets test requirement, as shown on this chart, in the State of Ohio they ask you to detail in this form all that you own in an enormous number of categories. Let me just go through this: your savings accounts, your checking accounts, anything you have with a credit union, any promissory notes, any stocks and bonds, any tax shelter accounts, any certificates of deposit, automobiles, 401(k)s, trust funds, Christmas clubs, vehicles of any kind other than an automobile—if you happen to have a pickup—money market funds, life insurance, land contracts, IRAs, Keogh plans, revocable burial accounts, irrevocable burial accounts, and other assets.

So if you own a cow or you own a horse, whatever you own, they want to know about it. Then they add up the total value of those assets to see whether you have $4,100 there. If you do have $4,100 there, you have just failed the assets test.

There are some 20 items here for low-income seniors or disabled Medicare beneficiaries to report just to apply for the prescription drug low-income benefit. It is a test, as I indicated, which many of us in Congress would have trouble passing without the assistance of a lawyer or an accountant. It is a major barrier, it is a burden we are imposing on these very individuals whom we say we are trying to help.

I bring this to the attention of the Senate because I do not think many of us know the extent to which these applications are both difficult—difficult to complete—and also a terrible invasion of privacy.

The Georgia application reads—and let me put that provision on the easel. We have a blowup of the application, which I am sure very few can read. But just to make the point, we have tried to blow it up so people can see it. I will read from the Georgia application. It says:

> I understand that, by signing this application, I am agreeing to a full investigation or review of my eligibility by state and/or federal officials. This may include inquiries of employers, medical providers, financial institutions, and other business and professional persons and review of any agency records.

Oklahoma's application goes even further. It reads:

> I authorize the release of any necessary information, documents, or forms to the [Oklahoma department] from individuals, businesses, schools, banking institutions, data brokers, public or private organizations, Oklahoma state agencies, including personal and/or business income tax returns from the Oklahoma Tax Commission, or federal agencies to determine my eligibility for assistance or to determine the accuracy of any payments to vendors on my behalf.

The Pennsylvania application—unfortunately, I do not have that blown up here; it would take more easels than we have available—requires the applicant to consent to:

. . . fully cooperate in the finger, photo, and signature imaging process.

It requires the reporting of any changes in the number of people in the household, any changes in the resources of the individual, and it adds—and this is a quotation from the report; this is the Pennsylvania report—''you must report any plans to leave the state, even temporarily.'' So if you want to come from Pennsylvania down to Washington, DC, to see your Senator, you have to notify the folks in Pennsylvania that you are leaving the State if you are, in fact, eligible for this benefit.

The burden of the application ought to be something that would scare off a lot of individuals. Here is a line that is in the application of many States:

State and Federal law provides for fine, for imprisonment, or both for any person who withholds or gives false information—

I note that it does not include anything about intentionally giving false information.

in order to obtain assistance to which he or she is entitled.

The application from Georgia reads:

I understand the questions on this application—

which I would attest is virtually impossible for a lot of folks unless they do get professional help in understanding all of this—

and I certify under penalty of perjury that the information given by me on this form is correct and complete to the best of my knowledge.

The result of this assets test, this barrage of paperwork presented to people when they come in and ask for the benefits, is what the Congressional Budget Office is telling us. Their estimate is that only 50 percent of Medicare beneficiaries who are eligible for the low-income benefit under this bill will actually get the benefit. I find it shocking, after reading these applications, that the number could even be that high. It is a testament to the Nation's seniors and disabled that so many people go through the bureaucratic maze to get the benefit we are talking about.

On the implementation of the Children's Health Insurance Program—a different program but one that also had a similar assets test—a number of States initially imposed assets tests on the families before they allowed children to get health care coverage. Over time most of those States have repealed those tests.

Our experience with the assets test in the case of the Children's Health Insurance Program should be instructive. The Denver Post wrote at the time:

It seems the system is penalizing people for trying to build better lives. The message is that you must stay poor. If you have a decent running car that will get you to where you need to go, you will lose your health care coverage.

The Rocky Mountain News added:

Jumping through the hoops might be a whole lot easier for some families than filling out the required forms which rival the renowned handiwork of the Internal Revenue Service for clarity and ease of compliance. The logic of erecting such paperwork obstacles escapes us. Government doesn't have to offer insurance to the children of working poor but having made the decision to do so, it is hardly fair then to smother the program beneath layers of red tape.

These last two quotes relate to the Children's Health Insurance Program, not to the Medicare prescription drug benefit. But the same problem pointed out when we had the assets test applied in the case of the Children's Health Insurance Program is true and exists with respect to this prescription drug coverage for our Nation's low-income elderly and disabled citizens. We are not only smothering them beneath layers of red tape, but the applications threaten their privacy and further threaten fines or imprisonment if those individuals who apply provide false information even if it is unintentional in some cases.

I raise these points because very few, if any, Senators have taken the time to understand the application process, and they would be appalled if they really did take the time to understand the difficulties we are placing in the way of a senior getting access to this low-income benefit. I urge each of them to attempt to fill out their own State's application. Clearly that would be a good way to acquaint themselves with the difficulty of the problem we are putting in the way of people.

Before closing, let me point out the assets test was established in 1988. It has never been updated for inflation. Nor does the bill update the assets test for inflation.

Not only was the assets test established in 1988 at this level of $4,000 and $6,000 per couple, and it has never been updated for inflation, but it has built in it a marriage penalty. If you get married, a couple can only have a combined net worth of $6,000. If you remain single, you can have a net worth of $4,000. Everyone who gives speeches about the importance of eliminating the marriage penalty will want to support the amendment for that reason.

The bill does update the amount of the deductible. The amount of the deductible increases. It does update the catastrophic limit by an inflation factor pegged to increases in drug spending which the Congressional Budget Office estimates will increase on average 12 percent a year over the next 10 years. But we do nothing to index or update the amount of this assets test.

While I completely respect the position of the chairman that he would place a priority on using any additional funds to close the coverage gap in the bill—I certainly favor closing that coverage gap myself—we need to protect our Nation's most vulnerable, the poorest and the sickest among us first. If we provide a low-income benefit, as the bill does, it should be unacceptable to us to have only half of those who are eligible for that benefit actually access the benefit. This is similar to the Children's Health Insurance Program in that we are not required to provide this benefit, but now that we are choosing to do so and we are choosing to do so on a bipartisan basis, we need to be sure those who are intended to benefit from it can in fact do so. We are about to impose on these individuals an avalanche of bureaucratic red tape when they try to access the benefit.

The underlying legislation has contained in it 69 pages of language that is designed to give health care providers a whole range of regulatory relief. Here we have some of that detail on this chart. The appeals process is being reformed—expedited review procedures, provider ombudsman, a variety of things to try to help providers. But we have nothing to give beneficiaries any relief from the burden I have described.

One Senator said last week that the amendment I have offered to eliminate the assets test would cost money. It would increase State administrative costs. Frankly, that statement could not be more inaccurate. In fact, if we dramatically reduce the paperwork burden, the bureaucratic paperwork, States would not have to increase administrative costs. They would actually be able to reduce those costs. It is not the amendment that is increasing these costs. It is the underlying bill. It is not the amendment that is imposing the burden upon States. It is the underlying bill itself.

All the amendment does is significantly reduce the amount of bureaucratic paperwork that must be dealt with in order for this benefit to be provided. Some States have actually found that it costs more to administer the assets test than they save by disqualifying people who fail the test.

In addition, Senator HATCH's comments on the amendment were right in saying it would increase costs. But the estimate is that it would increase costs by $4 billion over the 10-year period for which the Congressional Budget Office calculates.

This is well within the budget limitations Congress established for this drug benefit. There are $19.3 billion remaining in the budget for fiscal years 2009 through 2013. My amendment provides those are the years that this assets test would be eliminated.

The amendment also does so by eliminating the false advertising we are engaged in as we tout a low-income benefit when, in fact, only 50 percent of eligible beneficiaries are going to receive it. In fact, CBO estimates that another 1 million low-income seniors who are eligible for this low-income benefit will in fact be able to access it if this amendment is adopted.

If we eliminate the bureaucratic red-tape, who are the 1 million people who would benefit from this assets test? The Commonwealth Fund has studied that. They have said in a recent report:

Compared to other Medicare beneficiaries, low-income Medicare beneficiaries are older,

they are more likely to be women, they are more likely to be single, and more than twice as likely to be widowed or divorced or separated. Low-income Medicare beneficiaries are almost twice as likely to report that their health is either fair or poor.

I think it is these people who need to be our first priority. The amendment I have to eliminate the assets test will help us to provide a genuine benefit to these people. I hope my colleagues will support this effort. It will substantially improve the underlying bill and substantially simplify the providing of this benefit we are all hoping occurs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank the Senator from New Mexico. I think he has a very good point. The current assets test is degrading, unworkable. It is just not good policy. It is also extremely complicated. Currently, assets tests apply to various kinds of benefits—sometimes Medicaid or Medicare, or certain categories of Medicare. It defies logic, it is so complicated. Frankly, if this Senator had his way, we would repeal a lot of the assets tests which have not been updated for a good number of years—since 1987 or 1989. We are talking about $9,000 a year or something like that. On the other hand, we are dealing with $400 billion in this bill. A total repeal of the assets test on drugs only would be—I don't know the cost, but it would be expensive.

The Senator from New Mexico, in his good-faith effort to try to deal with unnecessary complications—which is bad public policy—is trying to modify a repeal of the assets test to a smaller category. Frankly, it has a lot of appeal. But as the Senator knows very well, probably as well if not better than most Members of this body, that would only go part way toward correcting some of the inequities caused by the assets test. Even if the Senator's amendment to totally repeal the asset test applying to drugs would go into effect, nevertheless, the asset test with respect to the rest of the categories would still apply under Medicare. That is low-income categories that are mandatory.

It is incredibly complex, which is to say I am very sympathetic with the Senator and I am hopeful we get this score back from CBO on the Senator's asset test amendment, that it is one that certainly can work within the $400 billion limit we are operating under. I, for one, believe it should pass. I thank the Senator very much for persistently and very forthrightly, with a lot of good information, bringing this up to be dealt with.

Mr. President, I ask unanimous consent that all pending amendments be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 985

Mr. BAUCUS. On behalf of Senator EDWARDS, I send an amendment to the desk with respect to consumer advertising.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. EDWARDS, himself, and Mr. HARKIN, proposes an amendment numbered 985.

Mr. BAUCUS. 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 strengthen protections for consumers against misleading direct-to-consumer drug advertising)

At the end, add the following:

TITLE ____—DIRECT-TO-CONSUMER PRESCRIPTION DRUG ADVERTISING

SEC. ____01. HEAD-TO-HEAD TESTING AND DIRECT-TO-CONSUMER ADVERTISING.

(a) NEW DRUG APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subparagraph (A) of the second sentence of subsection (b)(1), by inserting before the semicolon at the end the following ''(including whether the drug is safe and effective for use in comparison with other drugs available for substantially the same indications for use prescribed, recommended, or suggested in the labeling proposed for the drug)''; and

(2) in subsection (d)(5)—

(A) by inserting ''(A)'' after ''will''; and

(B) by inserting after ''thereof'' the following: '' or (B) offer a benefit with respect to safety, effectiveness, or cost (including effectiveness with respect to a subpopulation or condition) that is greater than the benefit offered by other drugs available for substantially the same indications for use prescribed, recommended, or suggested in the labeling proposed for the drug''.

(b) MISBRANDING.—Section 502(n)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)(3)) is amended by inserting after ''effectiveness'' the following: ''(including effectiveness in comparison to other drugs for substantially the same condition or conditions)''.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate amended regulations governing prescription drug advertisements.

(2) CONTENTS.—In addition to any other requirements, the regulations under paragraph (1) shall require that—

(A) any advertisement present a fair balance, comparable in depth and detail, between—

(i) information relating to side effects and contraindications; and

(ii) information relating to effectiveness of the drug (including effectiveness in comparison to similar drugs for substantially the same condition or conditions);

(B) any advertisement present a fair balance between—

(i) aural representations and visual representations (such as large-print or full-screen text) relating to side effects and contraindications; and

(ii) aural representations and visual representations relating to effectiveness of the drug (including effectiveness in comparison to similar drugs for substantially the same condition or conditions);

(C) prohibit false or misleading advertising that would encourage a consumer to take the prescription drug for a use other than a use for which the prescription drug is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(D) require that any prescription drug that is the subject of a direct-to-consumer advertisement include in the package in which the prescription drug is sold to consumers a medication guide explaining the benefits and risks of use of the prescription drug in terms designed to be understandable to the general public.

SEC. ____02. CIVIL PENALTY.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

''(h) DIRECT-TO-CONSUMER PRESCRIPTION DRUG ADVERTISING.—

''(1) IN GENERAL.—A person that commits a violation of section 301 involving the misbranding of a prescription drug (within the meaning of section 502(n)) in a direct-to-consumer advertisement shall be assessed a civil penalty if—

''(A) the Secretary provides the person written notice of the violation; and

''(B) the person fails to correct or cease the advertisement so as to eliminate the violation not later than 180 days after the date of the notice.

''(2) AMOUNT.—The amount of a civil penalty under paragraph (1)—

''(A) shall not exceed $500,000 in the case of an individual and $5,000,000 in the case of any other person; and

''(B) shall not exceed $10,000,000 for all such violations adjudicated in a single proceeding.

''(3) PROCEDURE.—Paragraphs (3) through (5) of subsection (g) apply with respect to a civil penalty under paragraph (1) of this subsection to the same extent and in the same manner as those paragraphs apply with respect to a civil penalty under paragraph (1) or (2) of subsection (g).''.

SEC. ____03. REPORTS.

The Secretary of Health and Human Services shall annually submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that, for the most recent 1-year period for which data are available—

(1) provides the total number of direct-to-consumer prescription drug advertisements made by television, radio, the Internet, written publication, or other media;

(2) identifies, for each such advertisement—

(A) the dates on which, the times at which, and the markets in which the advertisement was made; and

(B) the type of advertisement (reminder, help-seeking, or product-claim); and

(3)(A) identifies the advertisements that violated or appeared to violate section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)); and

(B) describes the actions taken by the Secretary in response to the violations.

SEC. ____04. REVIEW OF DIRECT-TO-CONSUMER DRUG ADVERTISEMENTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall expedite, to the maximum extent practicable, reviews of the legality of direct-to-consumer drug advertisements.

(b) POLICY.—The Secretary of Health and Human Services shall not adopt or follow any policy that would have the purpose or effect of delaying reviews of the legality of direct-to-consumer drug advertisements except—

(1) as a result of notice-and-comment rulemaking; or

(2) as the Secretary determines to be necessary to protect public health and safety.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 986

Mr. BAUCUS. Mr. President, I send to the desk an amendment on behalf of Senator LAUTENBERG with respect to moving the effective date of this legislation 1 year forward.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. LAUTENBERG, for himself, Mr. REED, Mrs. CLINTON, and Mr. CORZINE, proposes an amendment numbered 986.

Mr. BAUCUS. 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 make prescription drug coverage available beginning on July 1, 2004)

At the end of title I, insert the following:

SEC. __. IMPLEMENTATION OF TITLE.

Notwithstanding any other provision of this Act, the amendments made by this title shall be implemented and administered so that prescription drug coverage is first provided under D of title XVIII beginning on July 1, 2004.

Mr. BAUCUS. Mr. President, those are two amendments which Senators have offered. That means, as a practical consequence, that they are more likely to be considered than amendments that have not been offered. These are amendments that I will now call CBO and get scores on. It is difficult to get scores from CBO on amendments if they are not pending. If Senators have not told me they are going to offer amendments, I cannot put them on the list. This is a roundabout way of saying to Senators who wish to offer amendments, it behooves them to do it now and get them into the queue. Then I can call CBO and tell them we need a score on this or that amendment. CBO cannot score all amendments that will be potentially filed, because it has limited resources. It can only do it as they become real. I urge Senators to come forward with amendments so we can deal with them.

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. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

AMENDMENT NO. 981

Mr. SANTORUM. Mr. President, I rise in opposition to the Pryor amendment which I understand was debated just a few minutes ago. I do so in strongest terms. We had a debate last week on the issue of reimportation of drugs from Canada. The Senate spoke and said that if the Secretary of Health and Human Services would declare that such reimportation was safe, we could then bring these drugs across the border at a reimported price.

Many on this side of the aisle, and I am sure a few on the other side of the aisle, voted for that amendment, as amended, by Senator COCHRAN for that safety measure basically concluding that the Health and Human Services Secretary would never determine that these drugs would be considered safe, since the Canadian Government itself said they could not guarantee they were safe. We have all sorts of problems today with counterfeit drugs, drugs getting shipped in from other countries, leading to a variety of health problems. There was a great amount of comfort.

The Pryor amendment goes one step further, according to my understanding, saying if the Secretary does not say the drugs are safe within a period of time—I believe it is 2 years—then prices of drugs in this country will be set by the Canadian Government, which I find a startling concession of authority of this Government to a foreign country; that we are going to have a foreign country and a board in a foreign country set prices for drugs in the United States of America.

It is a remarkable concession for the Senate. I know we have a great desire to control many things in the United States. We would like to set prices, I am sure, on lots of different items. We do it in the Agriculture bill all the time. Now we are going one step further. If you cannot win price controls by having the Senate pass a price control bill, delegate the Canadian Government to control the prices for you.

Maybe we should choose different countries. Why Canada? Maybe there are other countries that set even lower prices than Canada. I suspect there are countries that would set lower prices than Canada. Why not choose them if we really want to save consumers money?

If this amendment is adopted, I would probably offer amendments that we should have chicken prices set by the Canadian Government, wheat prices set by the Canadian Government, and lumber and timber prices set by the Canadian Government. Maybe it would just be good to have the Canadian Government set all our prices in this country for those items we think are important. Obviously, they are very thoughtful in Canada, and they know what is best for us here, and we should just go ahead and let them set our prices for us.

We are not talking about the Canadian marketplace setting prices. We are talking about the Canadian Government. Let me explain how the Canadian Government operates. The Canadian Government operates as follows: You want to sell your drug in Canada? Fine, you have to get it approved, get it on the formulary.

By the way, you have no other place to sell drugs other than drugs approved by the Canadian Government. Remember, they have a Government-run health care system up there. My understanding is that the Canadian Government actually sets their own drug prices. I do not think they go to another country to get drug prices set and use those. I think they set their own.

Assuming they are setting their own drug prices, what they do is say to the drug company, take Pfizer: OK, you want to sell your drug here? Great. We will pay you $1 a pill.

Pfizer says: This costs us $1 billion to research. It is a great drug. It solves all sorts of problems. We sell it in America for $10 because of the enormous cost of the research and testing to make sure it is safe and efficacious, and it cost us a lot of money, and we only have a short patent by which to recoup the investment dollars. We have a lot of drugs we tested along the way to find a cure for this problem, and we have to recoup those costs; otherwise, we cannot stay in business, we cannot continue to research. The Canadian Government says: That is nice; a dollar.

Pfizer says: No, we can't sell it for a dollar.

The Canadian Government says: Fine, you can't sell your drug here.

So Pfizer loses out on a market of 16 million people—I do not know how many people are in Canada—16 million people, something like that.

Pfizer says: No, we won't sell.

Or what they say is: You know what. It only costs us 50 cents to make this pill. Yes, we are not going to make any money on it, but this is a drug that is an important drug so we will make it available in Canada for a dollar.

The other alternative is they just say, no, we are not going to sell it in Canada. Under Canadian law, the Canadian Government has the right to steal Pfizer's patent, issue that patent, that formulary or formula, whatever the drug is, to a generic drug manufacturer in Canada for them to produce at the dollar price that Canada is willing to pay for it. So they can steal a patent that a company in this country spent millions of dollars, potentially a billion dollars, to come up with and set a price in Canada at the level they so choose.

The Senator from Arkansas wants to condone that behavior and say we have to charge the same price in this country.

I cannot imagine anything that would be more damaging to an industry that does more than any industry in America to solve our health problems. They spend more on research and development than any group of companies that exist, and they bring through drug after drug and therapy after therapy to extend lives, to increase the quality of life, and to cure diseases.

So the reward in the Senate is that we are going to have a foreign government set prices for an industry that

does not exist in Canada but it does exist in the United States. The majority of the new drugs in the world are researched and developed in the United States.

Yes, we do pay more for drugs in this country. I will concede that to the Senator from Arkansas. We pay more for drugs here, and the reason we pay more for drugs here is that we do not regulate prices, as most other countries around the world do.

I think the Senator from Arkansas is on to something. We need to do something about those prices around the world, but it is not to adopt them in this country; it is to get the trade administrator to start putting these issues on the table when it comes to negotiating free trade deals. They have to put on the table the pirating of our patents, with our free trade partners such as Canada and Mexico. They have to put on the table the prices they pay for drugs that are researched in this country that our people in this country subsidize. Yes, we do.

In fact, we subsidize the world's research in pharmaceuticals, admitted.

So the Senator from Arkansas says we are going to stop doing that. We are going to do what Canada does, which is not subsidize one nickel of the cost of researching these new drugs—what Germany does, what England does, what most of the developed world does. Yes, they piggyback on America, and so the Senator from Arkansas is saying let's just piggyback on Canada.

Well, what are the consequences? I do not think it takes an expert in pharmaceuticals to figure out exactly what happens. We will squeeze the research dollars out of the drugmaking industry because we will be reimbursing them based on their cost of manufacturing. So the dollars for research to attract investment dollars to spend on research and development for that next generation of drugs will be gone.

Maybe that is a good idea. Maybe it is more important to have people get their drugs inexpensively today than to find that cure for cancer, diabetes, or Parkinson's, or develop a new drug to ease symptoms of HIV. Maybe it is more important for someone to have their drugs a little cheaper today. But there are millions of Americans, and there are even more millions of people around the world, waiting for that little pill that is yet to be discovered that will extend their life so they can see their daughter or grandchild being born, waiting for someone to cure that disease they are saddled with today, to give them just a few more months or a few more years, and we will say to them, anyone who votes for this amendment, when that person walks in their office and says, I am here for NIH research dollars for diabetes, or, I am here for NIH research dollars for AIDS, Parkinson's, cancer, or heart disease, I want that Senator to say to them, I voted for this amendment and, yes, we are going to have lots of research dollars, but no one is going to take that research and do much with it because we have just squeezed every dollar we can for research and development out of the pharmaceutical industry, which would take that research and do something with it to put it to commercial practice and make that drug available.

We will say to them that even though we are passing a prescription drug benefit that is going to extend pharmaceutical benefits to make drugs less expensive, that was not good enough. No, it was not good enough to cover people's drug benefits. We have to take a bite out of the hide of those nasty pharmaceutical companies that get beaten up with frequency, I understand. They get beaten up a lot, until they are needed, until they extend your wife's life or they save your child's life; then the rhetoric tones down quite a bit.

We are shooting with real bullets. This is a Medicare pharmaceutical package that will pass and turn into law, and anybody who thinks this is a free vote, that we can go back home and campaign and say, gee, I am going to get you cheap drugs, understand what this vote means. When that 7-year-old diabetic walks in your office, understand what you have done. It is as real as denying them the cure that is sure to come.

I know this is not a popular issue, to stand up for pharmaceutical companies. Maybe we should do to them what we have done to a lot of industries that have been successful in America: Beat them up, tax them, take their profits away, until they become dependent upon us, and then we will give them loan guarantees and bail them out. Then it will be a really popular thing because they will be losing money and we will have to help them. I think that is a very bad approach.

The right approach is to provide coverage for those who are in need of insurance to help them with their prescription drug bills while at the same time allowing one of the most vibrant industries we have in this country to survive and thrive. That is the balanced approach. It is not attacking the very organizations, the companies, that are providing lifesaving drugs for millions of Americans and millions around the world.

Mr. PRYOR. Will the Senator yield for a question?

Mr. SANTORUM. I am happy to yield for a question.

Mr. PRYOR. Mr. President, I have a lot of respect for my colleague from Pennsylvania, but I would like to ask if he is familiar with this statement by Gerald J. Mossinghoff, president of Pharmaceutical Manufacturers Association. He says:

> Canada, in a move away from the system that hindered innovation, improved the patent law for medicines in 1988. Two weeks ago, it further strengthened the law by eliminating compulsory licenses for drugs approved after December 20, 1991. Drug research in Canada has increased sharply since 1988.

This is his testimony to Congress dated February 22, 1993.

What I ask the Senator is, in view of this statement, is he still maintaining that Canada can steal drug companies' patents?

Mr. SANTORUM. Yes, I do. I say that because there has been a lot of work that has been done since then. According to many legal scholars I have talked with, they still believe Canada has that ability to continue to steal licenses and give those patents away to drug companies in Canada. I will be happy to provide that documentation, but I do not have it with me. I had it last week, but the issue did not come up. I will be happy to share that.

Mr. PRYOR. If the Senator will yield for another question, Canada does take the position, as any nation would, that under its national sovereignty, it can in extreme situations take over a patent. I am sure the United States has the same provision in its law. I have not looked at the law books recently, but I know after September 11 and the anthrax scare, Canada did make the statement that it reserved the right to produce its own vaccines using existing patents.

I am guessing without knowing all the details of your statement, the policy and their intentions—by the way they did not do this—I am guessing they would have paid the pharmaceutical industry something based on manufacturing its patent, but they were doing it in their own national interest to protect their citizens.

So my question is, you pretty much imply that they routinely have the ability to steal patents; they routinely threaten that, but as best we know there has only been one example, extreme example after September 11, where they talk about the possibility of doing this.

Mr. SANTORUM. What I said in several speeches is as follows: Where there is competition, there are like classes of drugs. They use the exclusion, they use a formulary to exclude or drive down prices. If you have 10 arthritis drugs, they pick two or three, which is what a formulary is all about, and they will pick those based on the cheapest price available and patent medicines. And they will exclude others so they do not have access to the market.

I have never said in those cases the Canadian Government would use their authority to steal a patent. In fact, I have been very clear. I have said in the cases they would use it is where this is a unique drug. And if this is a unique drug, a breakthrough drug, or something that has no other competition, if you do not go along—we used the example of, I think, Cipro they were using as an example that is relevant to the case I made in the past—where there is a drug that does not have competition, that is, in fact, what they do. Leverage. In the other cases where there is competition, they have other leverage and they will not use the licensing of a patent or the stealing of a patent as a recourse.

There are two different competitive or anticompetitive maneuvers by the

Government of Canada: One having to do with drugs of which there are a variety in that class and a separate, the patent issue having to do where there is a drug with no real competitor.

This is the case I have made repeatedly, not just last week but in years past. If I was not clear on that today, I may not have been in my explanation. I apologize but that is what I have said.

Mr. PRYOR. Mr. President, I ask one additional question. A few moments ago—I know the Senator was being facetious—you talked about the nasty pharmaceutical companies and how easy it is for some to come in and impugn them and pick on them and try to punish them in some way. I don't know if you heard my comments earlier in the day, but I talked about how proud I was of a lot of what the pharmaceutical industry does in this country and around the world. In fact, I compared the advances in medicine to the advances in aeronautics in the last 100 years. The advances in medicine have been more remarkable than those of aeronautics. It is critical to have a robust industry on the cutting edge but at the same time two of the reasons the pharmaceuticals like to do their research in this country is because of the large amounts of money we fund to NIH. They do very valuable research that the pharmaceutical companies operating here can take advantage of, and we give them a very hefty research and development tax credit. I am for that credit. I am a cosponsor to continue that credit. I think it is critical for the industry.

I hope the Senator was not implying that I am a big critic of pharmaceutical companies. Bear in mind, I don't think they always have clean hands. I have seen in my work as attorney general and reading the newspapers some business practices I wish they would change. We dealt with those at the State level when I was attorney general. The Senate is starting to deal with some of those.

Mr. SANTORUM. I was not in any way suggesting you, individually, with respect to pharmaceutical companies. I was suggesting the amendment is very damaging to that research.

The Senator mentioned we subsidized through NIH research, as we do a variety of other fields, not just pharmaceuticals, as well as providing research and development tax credit, which, of course, we do not just for pharmaceuticals but for a variety of different industries. What we also do is have the FDA process which is the most expensive and cumbersome existing in the world. It takes months, and in most cases years, longer to get a drug to market, and that cap starts from the time you file, not from the time of FDA approval. The fact we had a year or 2 or 3 or more, when drugs are available in other countries and not available here, it makes the time to recoup the investment shorter. That is one of the reasons our prices are high, because of the shorter time drug companies have as an opportunity to recoup their investment. They have a longer period of time in places such as Canada, which does not require the testing we do and the trials we do.

The other reason is we also have a very expensive litigation system in this country. Pharmaceutical companies, not surprisingly, because they deal in the area of health care, are in court a lot for adverse reactions to their pharmaceutical products. Other countries do not have nearly the lucrative civil justice system, medical liability system, that we have in this country. Therefore, the costs associated with selling pharmaceuticals in this country because of our litigation system are disproportionately higher than they are in places such as Germany, Canada, and others that do not have the same kind of rewards we see in this country for harm done to people that ingest the drugs.

It is not just what we do to subsidize. Canada would say they probably provide a percentage of money in there to help research, and I am sure the other countries would say they do the same; that they contribute a share toward research, too.

As much as we subsidize, we probably cost them when it comes to the existing structure of the FDA and the legal system in this country. I argue that, yes, we may help, but we probably give with one hand and take with the other.

The bottom line is, this amendment delegates to the country of Canada the authority to set drug prices in this country. I don't know whether the Senator from Arkansas has considered whether drugs that are not set by formulary in Canada, whether those prices would not be set in this country, or only those on the formulary are set. In the end, if this would pass, you would have a lot of drug companies probably not selling drugs in Canada because by doing that, they give up this market.

My guess is the folks who are probably against this more than any other U.S. Senator, including myself, are probably the people in Canada who, if this were to pass, we probably would not find one pharmaceutical company willing to sell the drug in Canada if they would lose their market here. That may not be your intention, but I suspect that would be the consequence because it is a pretty small market up there compared to here. It is not profitable up there compared to here. My guess is you would have the undesirable effect of affecting the health care of millions of Canadians when it comes to the ability to get new drugs; or conversely you would be requiring the Canadian Government, and maybe this would be good, to raise the reimbursements for their drugs. That may be the desirable impact. That is not something I would be willing to take a chance with, as to whether the Canadian Government would respond in a favorable fashion, at least to my understanding, to this amendment by actually increasing drug prices over there so they could keep some level of new pharmaceuticals within their country.

I understand we are not going to be voting on this immediately, this is going to be voted on tomorrow at some point. But I did want to come to the floor and just urge my colleagues, even if you are for reimportation, this is a fundamentally different thing. This is just completely changing the drug pricing structure of the United States of America and delegating it to a foreign entity. I strongly suggest if you want to do that, if you want to set drug prices, let's have an amendment to set drug prices. My goodness, let's not delegate it to the people of Canada to set our drug prices. Even if you are for reimportation, even if you are for cheaper drug prices, don't let the Canadian Government do it. Get the glory of setting it ourselves, if we want to do something.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 933

Mr. GRASSLEY. Mr. President, I ask for the regular order with respect to the Bingaman amendment, No. 933.

The PRESIDING OFFICER. The regular order is amendment No. 933.

Mr. GRASSLEY. Mr. President, I move to table the amendment, and ask for the yeas and nays, to have the vote occur at 5:30 and that the time between now and 5:30 be evenly divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, could I ask, now do we have 3 minutes or so on each side?

Mr. BAUCUS. Yes, we do.

Mr. KENNEDY. Could I have one of the 3 minutes?

Mr. BAUCUS. Absolutely. How many minutes does the Senator want?

Mr. KENNEDY. Can I have a minute and a half? I see others who want to address this issue.

Mr. BAUCUS. I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, I hope this amendment will not be tabled. First, I commend the chairman of the committee and the ranking minority member of the committee. They have made a major step forward in reducing what we call the asset test.

Under the assets test, any senior who managed to scrape together more than $4,000 in a savings account wouldn't qualify for the most generous benefit. Those elderly persons with a minimum amount of possessions, even if they are just above the very minimum wouldn't qualify. We are even talking about limits to the amounts that can be set

aside for a burial plot or the value of personal items like jewelry or a car.

This bill we have before us has reduced the asset test in a very significant and dramatic way for seniors who have income above 135 percent of poverty. But it still remains for those who are poorest of the poor. The Bingaman amendment costs only about $3 billion, but would substantially benefit the neediest of our seniors.

In addition, the paperwork for the assets test is demeaning and an additional burden on senior citizens. I looked over the form in Georgia, for example, and it is about 10 pages long. In another State it is 16 pages long. We are talking about a test which will effectively reduce the availability of absolutely needed prescription drugs for the seniors who are the poorest of the poor.

The bill before us has made very substantial progress in helping our neediest seniors. The Bingaman amendment would just finalize it and effectively say we are not going to use an asset test as a condition to be able to participate in the prescription drug program.

I do not see my friend and colleague, the Senator from New Mexico, here on the floor. But I want the Senator to know that it is a thoughtful amendment and it will assure that low income seniors have access to the special assistance they need without pauperizing themselves or undergoing this demeaning procedure. A senior with income below the poverty line and who didn't pass the assets test under the current bill would pay 10 percent of the cost of the drugs, whereas under the Bingaman amendment she will have to pay only 5 percent. That doesn't sound like a lot of money around here but it is a lot of money for some of the most needy senior citizens.

I commend the committee for what they have done. I hope we will continue to make progress in this area and not table the Bingaman amendment.

Mr. GRASSLEY. Before I yield 3 minutes to the Senator from Pennsylvania, I ask unanimous consent Senator MURRAY's amendment be the first in order after the vote, and that any other amendment in order be laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I yield 3 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I understand the point which the Senator from New Mexico is trying to accomplish. We do this in Pennsylvania. We do not have an asset test for our PACE Program. If you asked anybody up there now, Pennsylvanians dealing with this PACE Program, with the budget shortfall, one thing they would like to have put back in the box is this asset test.

You could have, conceivably, somebody who has a $1 million house and has all their investments in a house or has other assets that are not income producing and they could qualify for a very rich drug benefit under this amendment. It really does encourage people to put their money into nonproducing assets to qualify, particularly those who are sick, to qualify for a drug benefit. I just think these asset tests are a way of recognizing that income is not the only measure of what you can afford to pay when it comes to drugs. We have to look at what people own and the assets they have.

You can have someone who has very high asset value and very low income. We run into that all the time. That is the reason we have a variety of different taxes, to make sure we get at different ways in which people accumulate wealth and hold assets or live off income.

So I just say while this is well intentioned, it opens up a Pandora's box to have people who have, frankly, lots of resources—potentially lots of resources to be able to provide for themselves and also would lead, I would argue, to unwise public policy to encourage people toward planning when they retire to put their assets in nonperforming or nonincome-producing assets at a time when they probably should do otherwise.

While it is well intentioned, it could lead to a variety of problems. It is also a very expensive amendment and opens it up to millions more people, and this is already a bill that many believe is very generous to people who have a substantial amount of money. We should not be expanding this program in the subsidies to people who have a lot of assets that may not be income producing.

I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, if there is no one else on our side I would like to speak for another minute, if I could. Do we have the time?

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the author of the amendment is not here. I think he was caught a bit off guard when it was announced the vote would be on his amendment at 5:30. I understand he is on his way over here. I think it is only fair he be allowed to speak for a couple or 3 minutes at least on his amendment.

I ask consent the vote on the Bingaman amendment not be at 5:30 but at 5:40, and the remaining 10 minutes be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, might I inquire of the Chair what is the procedure after the vote?

The PRESIDING OFFICER. Under a previous order, the first amendment will be that of the Senator from Washington, Senator MURRAY.

Mr. KENNEDY. Mr. President, could I ask the floor manager, if Senator BINGAMAN is not here, could I have the remaining minute?

Mr. BAUCUS. I yield to the Senator from Massachusetts, but inform Senators when the time has expired I am going to suggest the absence of a quorum.

Mr. KENNEDY. Mr. President, we are not talking about individuals who have $1 million homesteads. We are talking about seniors who have $10,000 in income. We are talking about poorest of the poor of our senior citizens. This idea people are going to be able to circumvent it because they have $1 million and $10,000 in income is ridiculous on its face. Perhaps that individual is saving $5,000 in order to fix the roof in 2 or 3 years. They will not be eligible to be able to qualify under the program here.

This is really the poorest of the poor, and we are talking about incomes of $10,000 or less. That is what this amendment is about. At least I hope it would not be tabled. And if there is some kind of condition in terms of the value of their home, as the Senator from Pennsylvania has outlined, we can work that out. But we are talking about the poorest of the poor. If that is the kind of protection the Senator from Pennsylvania is interested in, Senator BINGAMAN is interested in, we are interested in, let's work it out, but let's not table the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, if the Senator wants to focus on the poorest of the poor, he should leave the assets test in place because that is exactly what it does. It says that you have low income and low assets. So we have, in fact, covered exactly what the Senator from Massachusetts is attempting to do.

What the Bingaman amendment does is leave open the possibility of the poorest of the poor not being the most heavily subsidized, that people who do have a big house, or other property, or amassed antiquities of some sort that may be very valuable—a coin collection, who knows that they would be focused in on as much as people who simply have nothing, have no place else to turn. So the assets test is very important for these scarce resources to be focused on those who need them most.

If you really do care about focusing on the poorest of the poor, and not just opening this up to people who may not need the assistance as badly, you would vote against the Bingaman amendment.

The PRESIDING OFFICER. The Chair advises the time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator BINGAMAN be allowed to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized for 2 minutes.

Mr. BINGAMAN. Thank you very much, Mr. President. And I thank the Senator from Montana.

First, Mr. President, I understand there is an intent to try to table this amendment at this point. Obviously, I would object to that. And I believe there are others who want to speak. I would like to try to accommodate any real concerns the majority has. So at this point, I ask unanimous consent that I be allowed to withdraw the amendment until it can be perfected in a way the majority would support.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I do not know if the motion is going to be to table this. I assume so. If it is, it is our recommendation we all move to table this, and Senator BINGAMAN will just offer this again tomorrow.

Mr. BINGAMAN. Mr. President, do I still have any time?

The PRESIDING OFFICER. The time has expired.

Mr. BINGAMAN. Mr. President, I ask for 30 seconds to explain my vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I am going to go ahead and vote with the manager of the bill to table my own amendment now in order that we can bring this back here tomorrow. I will plan to reoffer the amendment, and hope that if there are real problems with it, those can be brought to my attention before we reoffer the amendment tomorrow. It is a very important issue. It is one we need to deal with in a responsible way. I urge all colleagues to go ahead and vote to table at this time.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 933 WITHDRAWN

Mr. BINGAMAN. Mr. President, I renew my request that I be allowed to withdraw the amendment that I have related to the assets test at this time and reoffer it tomorrow after I have had a chance to consult with more of my colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

Mr. BINGAMAN. I ask unanimous consent to add Senator DOMENICI as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. FRIST. Mr. President, for information of our colleagues, because we initially set a vote for 5:30 tonight, for clarification, we will not have any votes tonight. We will not be voting because the amendment was just withdrawn. That decision was just made in the last 15 minutes. I know a lot of people had planned the course of the day to be voting tonight. Right now, other amendments have been introduced in the last few hours, and suggestions have been made, well, let's go to those amendments. In truth, a lot of people are showing up right at 5:30. I am uncomfortable having Senators come in and all of a sudden voting on those amendments.

I think the best thing, after talking to the managers, is not to have a vote tonight at this juncture but to have people continue to offer their amendments. We will continue the debate, and we will begin the orderly voting on amendments under the direction of the two managers tomorrow.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, it is my understanding that under the unanimous consent request, it is in order for the Senator from Washington, Mrs. MURRAY, to offer an amendment. Accordingly, I ask unanimous consent that all pending amendments be temporarily laid aside so she may offer her amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object, I did not hear the request.

Mr. BAUCUS. Mr. President, if I might repeat the request, that all pending amendments be temporarily set aside so the Senator from Washington may offer her amendment.

Mr. HARKIN. Mr. President, I have no objection. I ask unanimous consent that I be permitted to offer my amendment which will only take a few minutes after the Senator from Washington finishes her amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT NO. 990

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 990.

Mrs. MURRAY. 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 make improvements in the MedicareAdvantage benchmark determinations)

At the end of subtitle A of title II, add the following:

SEC. ____. IMPROVEMENTS IN MEDICAREADVANTAGE BENCHMARK DETERMINATIONS.

(a) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w–23(c)(4)(B)(i)(II)), as amended by section 203, is amended by inserting ''who are enrolled in a MedicareAdvantage plan'' after ''the average number of medicare beneficiaries''.

(b) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w–23(c)), as amended by section 203, is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by striking the comma at the end and inserting a period; and

(B) by striking the flush matter following clause (ii); and

(2) by striking paragraph (5).

(c) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICAREADVANTAGE PAYMENT RATES.—

(1) FOR PURPOSES OF CALCULATING MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3)), as amended by section 203, is amended—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)''; and

(B) by adding at the end the following new subparagraph:

''(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2006), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.''.

(2) FOR PURPOSES OF CALCULATING LOCAL FEE-FOR-SERVICE RATES.—Section 1853(d)(5) (42 U.S.C. 1395w–23(d)(5)), as amended by section 203, is amended—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(B) by adding at the end the following new subparagraph:

''(C) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the local fee-for-service rate under subparagraph (A) for a year (beginning with 2006), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved

under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on and after January 1, 2006.

Mrs. MURRAY. Mr. President, Congress is about to update Medicare to finally help seniors with prescription drugs, and while I have some real concerns about the way this bill would provide drug coverage, I am convinced that after 5 years of stalemate, it is time to pass a drug benefit now to begin to get seniors the help they need.

Mr. President, I have been working to improve this bill by providing additional funding in the Budget Committee, by supporting various amendments, and by offering my own amendment.

I want to make sure that the drug benefit we create will help as many seniors as possible. Before we add a new benefit to Medicare, we have to remember that there's a serious problem with Medicare today that penalizes seniors based on where they live. The problem is in the payment formula that Medicare uses, and it hurts many seniors.

Today under Medicare, some seniors can get fewer services—and pay higher premiums—just based on where they live. Every senior pays the same amount into Medicare, but some seniors get much fewer benefits based on geography. That's not fair to seniors in my State and in other States.

For the past few years, I've been working to fix that problem. Last year, I introduced the MediFair Act to bring all States up to the national average in Medicare payments. We are still working to fix this disparity in Medicare today. The problem is that this new drug benefit would follow that same old, unfair formula. It means that seniors in States such as Washington will have few choices and pay higher premiums.

That's why I'm offering my amendment today—to give seniors more choices and lower premiums as they get healthcare and prescription drugs.

As we improve Medicare, we shouldn't build on the unfair polices of the past. While I am still working to fix the underlying formula that's hurting seniors in my State, we can at least avoid perpetuating an unfair system in this new benefit. I am proud to report that we have made some progress recently to fix the regional disparity that penalizes many Medicare patients. I am pleased to have joined with Senators GRASSLEY and BAUCUS in closing the rural versus urban gap in reimbursements.

And, earlier this year, the Budget Committee unanimously adopted the Feingold-Murray-Johnson amendment, which modified the Medicare reserve fund to allow legislation to promote geographic equity in Medicare payments.

Back in 1997, when we expanded Medicare+Choice, we took some steps to make it fairer. Since the Medicare+Choice rate was based on the fee-for-service rate, it was important to provide some guaranteed level for states with low reimbursements. We did two things. First, we set a minimum payment—known as a floor—so that no county would fall below a certain level. Second, we tweaked the funding formula to provide greater equity across the country for everyone on Medicare. That approach is known as a ''blend'' because it takes the regional formula and blends it with the national average. Those were both good steps. There was only one problem: Congress never provided the funding to revise the formula. So we put a fix in the law, but we never funded it. We have not been able to fund it until now because it has to be budget neutral.

Today, my amendment would finally fund that technical correction and give seniors better access to care. Specifically, my amendment fully funds the Medicare+Choice blend formula starting in 2006 for determining the Medicare Advantage benchmark. If we don't fix this problem, we will deny many seniors access to coordinated care.

PPO's and HMO's will only go into those regions already at the higher end of per beneficiary reimbursement. We should—at the very least—try to create a level playing field for all regions of the country. It is unfair to talk about competition when some regions will receive hundreds of dollars more per beneficiary than others.

During this debate, I have listened to my colleagues talk about the benefits of PPO's and HMO's as part of their new Medicare Advantage. Senator FRIST has spoken several times on the benefit of a coordinated care approach for improving disease management and keeping seniors healthier longer. While I still have some concerns about how these new plans will operate, I want to be sure that seniors in Washington State and other States with low Medicare reimbursement can take advantage of Medicare Advantage. I also want to point out that is not about increasing payments to insurance plans. It's about ensuring that seniors in all regions of the country have access to competitive Medicare Advantage plans.

My amendment is similar to language adopted in the House Ways & Means Committee mark. However, I do not fully fund the blend in my amendment until 2006. The House proposes the change starting in 2004. I also point out that my amendment doesn't force plans in any State or region to do anything. If they want to base Medicare Advantage on either the current fee-for-service rate—or the Medicare +Choice rate—they are free to do so. My amendment gives plans a third option that could be more fair and could help more seniors.

Finally—in an effort to truly measure the cost of providing care to all seniors—my amendment directs the Department of Health and Human Services to determine the costs of care provided to Medicare beneficiaries at DoD or VA facilities. Since Medicare assumes the reimbursement, these beneficiaries should be counted in the equation.

Failing to account for the cost of this care has resulted in lower fee for service per beneficiary costs. Those lower fee-for-service rates means significant inequities in Medicare reimbursement. We should correct this existing flaw before we build a new drug benefit around it.

I have been trying to get HHS to take this step since 1997 and supported language in BIP A2000 directing HHS to report to Congress on recommendations for correcting this inequity. Unfortunately, HHS remains unwilling or unable to properly determine the actual cost of care in any given region or State.

SELF-INJECTABLES

Mr. President, I want to take just a moment to update my colleagues on another amendment that I will be offering soon with Senator CONRAD and Senator SMITH. It relates to a new, exciting group of drugs known as self-injected biologics, and it's a chance to give Medicare patients access to the benefits these new drugs offer. Senator CONRAD offered a similar amendment during the Senate Finance Committee mark up and received a commitment from the Chair to work with us on this effort. As a result of this commitment, Senator CONRAD withdrew the amendment. We have been working with CBO and Senator BAUCUS' staff to address any concerns.

Currently, Medicare will only cover biologics if they are administered in a physician's office or clinical setting. That means patients must travel to the physician's office to receive treatment. That's not easy for many patients who have Rheumatoid Arthritis or MS—two diseases that can severely limit a person's mobility.

Fortunately, there are versions of these drugs that a patient can take in their own home. It's a great innovation that will improve a patient's access. Unfortunately, Medicare won't cover biologics that are administered in the home. That just doesn't make sense. I have been working to correct this inequity for the past two Congresses. The Murray-Conrad-Smith amendment would provide two years of coverage, under Part B, for those self injected biologics that replace treatments currently available only in a physician's office. We allow for two-year coverage to bridge the gap to implementation of a Medicare prescription drug benefit.

We have received a CBO score for the two years and believe that we can find room in 2004 and 2005 to provide this important coverage for MS and RA patients. This legislation is strongly endorsed by the Arthritis Foundation and will provide additional coverage to all four MS self-injected or self-administered treatments. For MS, only one

treatment is covered under Medicare, provided in a physician's office.

I am hopeful that the managers of this legislation will be able to accept our amendment and end this discriminatory practice in Medicare.

Let me close by returning to the amendment currently before the Senate. For those Senators concerned about the inequities in the current Medicare reimbursement rates, I urge you to support this amendment. Fully funding the blend—as a third option in determining the Medicare Advantage benchmark—will provide greater equity and ensure that all seniors in all regions have access to a competitive, managed and coordinated care approach. Let's finally stop an unfair system and give seniors the access they deserve. It's the right thing to do, and I urge its immediate passage.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that we set aside the pending amendment so Senator HARKIN can offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 991

(Purpose: To establish a demonstration project under the Medicaid program to encourage the provision of community-based services to individuals with disabilities)

Mr. HARKIN. Mr. President, I have an amendment at the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 991.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

(The amendment is printed in the RECORD under ''Text of Amendments.'')

Mr. HARKIN. Mr. President, I am proposing this amendment, which would enact into law the ''Money Follows the Person'' rebalancing demonstration project. This project was part of President Bush's 2004 budget request. It is a critical component of President Bush's new freedom initiative.

This really is about freedom. It is about the freedom of people with disabilities to enjoy the same opportunities for employment and community living that are available to all Americans.

A number of years ago after the passage of the Americans with Disabilities Act, a number of us began working on what we considered to be the next step in trying to provide for a more open environment for people with disabilities. And that was to get more people out of confined living—nursing homes and institutions—and put them into community-based living arrangements.

The bill we have been working on to do that is called MiCASSA, which is the shorthand for the Medicaid Community Attendant Services and Support Act. I have been working on the bill for 10 years. In fact, I note for the record that the first introduction of this bill took place in the House in 1997 and was introduced by none other than the Speaker of the House Newt Gingrich. It was first introduced in the Senate in 1999, and I was the chief sponsor of it at that time.

My amendment basically would take what the President suggested in his budget and make it operable. My amendment would take the President's proposal for giving grants to States to transition individuals into community-based living under the existing Medicaid program.

Under the President's proposal, the Centers for Medicaid and Medicare would give out to States $350 million per year for 5 years. This money would pay 100 percent of the cost for community-based services for the first year after individuals with disabilities move out of an institution or a nursing home. After that time, the Federal Government would pay its regular Medicaid rate.

This amendment and the President's proposal was for a demonstration program for 5 years. So the total cost of this will be $1.75 billion over 5 years, and it will end because then the States would go back to their normal process and procedure. The idea behind this is to give States the upfront money they needed to get people with disabilities out of nursing homes and get them into community-based living.

I believe the President proposed this initiative because he recognized that, unfortunately, under current Federal Medicaid policy, the deck is stacked in favor of living in an institution. For example, right now under Medicaid, States are required to provide nursing home care, but they are not required to provide home and community-based services.

Data from 2001 indicates that 70 percent of Medicaid funds are now being spent on institutional care and only 30 percent for community-based care. That is a shameful statistic that needs to change. As the administration's documents state, this initiative would ''level the playing field.''

Some might argue this is a Medicare bill and we should not include a Medicaid initiative. However, there are other Medicaid provisions in this Medicare bill, presumably because they are important to some of our colleagues.

This amendment, I believe, is just as worthy, and I would argue more so because it helps fulfill our goals in passing the Americans with Disabilities Act 13 years ago. In fact, the 13th anniversary of the Americans with Disabilities Act is coming up on this July 26. Thirteen years ago we made specific findings about institutionalization and the continued segregation of individuals with disabilities.

I was one of the leading sponsors of the Americans with Disabilities Act, and I know firsthand the effects of segregation of people with disabilities. I told the story often about my brother Frank. When he was a young boy, he became deaf because he had spinal meningitis. He became totally deaf. They picked him up, took him away from home, and sent him halfway across the State to a segregated school for the deaf. The people referred to it as a school for the deaf and dumb. As my brother always said, I may be deaf, but I am not dumb. That is what it was like in those days. It continues on today, that people with disabilities are segregated and sent to live in institutions.

A couple of years ago, 1999, a very famous case made its way to the Supreme Court. It is referred to as the Olmstead case. The Supreme Court ruled in 1999 that confinement in an institution is discrimination. The Supreme Court stated that when you segregate someone, as was being done in Georgia—and this case just happened to originate in Georgia. I am not picking on that State, but it happens in all other States. This Olmstead case just happened to originate in Georgia. When the Supreme Court looked at the case, they said when you segregate someone, you are telling them they are ''unworthy to participate in community life.'' That is the Supreme Court decision.

That Supreme Court decision said that States must offer the least restrictive environment to people with disabilities. The problem is, 4 years later after the Supreme Court ruling, there are still countless Americans with disabilities institutionalized, needlessly institutionalized.

This amendment is a win-win program. It would not only help offer more choices to people with disabilities, it would provide the resources to States during a very difficult fiscal time. Studies have shown States that rebalance their long-term services system can realize substantial savings. The Lewin Group did a study of three States that increased their use of home and community-based waivers instead of nursing homes in the early nineties. In one year, Colorado saved $42 million, Oregon saved $49 million, and Washington saved $74.5 million.

The researchers explained these States were able to get such high cost savings by targeting people with disabilities who were very likely to go into a nursing home. In our amendment, we are targeting those who are already in an institution or nursing home. So States are already spending large sums of money on these people.

Based on data provided by the Congressional Research Service, nursing homes cost approximately $57,000 per year per person. Institutions for individuals with mental retardation cost $88,000 per person per year. Home and community-based waivers are roughly $30,000 to $50,000 cheaper per person than these institutional cases.

The problem is States cannot afford the upfront costs that are needed to move people out of institutions and into community-based living. For example, housing may need to be modified to be accessible. That costs money. An individual may need some education and services to get ready to move out of an institution, especially if they have been there a long time, say, 20 years or more. The State may need resources to develop sufficient community providers and rebalance its long-term service program.

There are a lot of upfront costs a State would have to do to get someone with a disability out of a nursing home, out of a State institution, and into a community-based living environment.

The amendment I am offering implements President Bush's own budget request for 2004. It will be an upfront investment to help these States do that transition. It is a demonstration program for 5 years to those States that need the help.

I applaud the President for proposing this program as part of his new freedom initiative because it really is about freedom: The freedom to live with family and friends, not with strangers; the freedom to take a walk in one's own neighborhood, not just on their ward; the freedom to be a person and not a patient.

No one should have to sacrifice their freedom to participate in society because they need help getting out of the house in the morning or assistance with personal care or some other basic service. Think about it. That is what happens to people with disabilities. They sacrifice their freedom to participate in society because they may need a little help in the morning, a little bit of help at night, or a little bit of attendant services.

As taxpayers, we know it is cheaper for us to provide that kind of home-based, community-based service rather than putting people in institutions. But back when we built the institutions, when we started the nursing home care for people with disabilities that is what we believed, that people ought to be segregated.

We have changed as a society, and I think we have changed for the better. It is not unusual now to see people with disabilities in all walks of life, working on the Senate floor, in our court systems, on the shop floor, running businesses, shopping in the store, eating in a restaurant, going to an amusement park. I argue what is unusual is that in the year 2003, to say we are going to take taxpayer money and we are going to institutionalize someone with a disability who does not want to be institutionalized, who would rather live in the community, who would like to go out for a walk in the daytime, who might want to go down to the corner store and purchase some things, who might want to go to a movie now and then.

Recently, I received a letter from someone who had been moved to community-based living. She said she went to a movie for the first time in 3 years. Think about that. It was the first time in 3 years because she had been in an institution and she could not go to the theater. Now she can go to the movie theater.

I hope Senators will think about this. As I said, it is in the President's budget. He has requested it. I have offset it. So I can see no reason we should not take this step to make sure people with disabilities can get back into the community where they belong and where they want to be, with their family and friends, and not shut up with strangers, with people they may not know, segregated from society.

I urge my colleagues to act now. Freedom does not need a lot of debate and discussion. The freedom for people with disabilities ought to be happening right now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside so the Senator from Minnesota may offer up to three amendments in succession.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

AMENDMENT NO. 957

Mr. DAYTON. I thank the Senator from Montana, and I will call three amendments up at this time. The first is amendment No. 957.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 957.

Mr. DAYTON. Mr. 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 provide that prescription drug benefits for any Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, may not exceed the level of prescription drug benefits passed in the 1st session of the 108th Congress, and for other purposes)

At the appropriate place insert the following:

SEC. ____. LIMITATION ON PRESCRIPTION DRUG BENEFITS OF MEMBERS OF CONGRESS.

(a) LIMITATION ON BENEFITS.—Notwithstanding any other provision of law, during calendar year 2004, the actuarial value of the prescription drug benefit of any Member of Congress enrolled in a health benefits plan under chapter 89 of title 5, United States Code, may not exceed the actuarial value of any prescription drug benefit under title XVIII of the Social Security Act passed by the 1st session of the 108th Congress and enacted in law.

(b) REGULATIONS.—The Office of Personnel Management shall promulgate regulations to carry out this section.

Mr. DAYTON. I ask unanimous consent that amendment be set aside and we proceed to the next amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 960

Mr. DAYTON. I call up amendment No. 960.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 960.

Mr. DAYTON. Mr. 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 require a streamlining of the medicare regulations)

At the end of subtitle A of title V, add the following:

SEC. ____. STREAMLINING AND SIMPLIFICATION OF MEDICARE REGULATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct an analysis of the regulations issued under title XVIII of the Social Security Act and related laws in order to determine how such regulations may be streamlined and simplified to increase the efficiency and effectiveness of the medicare program without harming beneficiaries or providers and to decrease the burdens the medicare payment systems impose on both beneficiaries and providers.

(b) REDUCTION IN REGULATIONS.—The Secretary, after completion of the analysis under subsection (a), shall direct the rewriting of the regulations described in subsection (a) in such a manner as to—

(1) reduce the number of words comprising all regulations by at least two-thirds by October 1, 2004, and

(2) ensure the simple, effective, and efficient operation of the medicare program.

(c) APPLICATION OF THE PAPERWORK REDUCTION ACT.—The Secretary shall apply the provisions of chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'') to the provisions of this Act to ensure that any regulations issued to implement this Act are written in plain language, are streamlined, promote the maximum efficiency and effectiveness of the medicare and medicaid programs without harming beneficiaries or providers, and minimize the burdens the payment systems affected by this Act impose on both beneficiaries and providers.

Mr. DAYTON. Mr. President, I ask unanimous consent that the amendment be set aside in order to bring up the third amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 977

Mr. DAYTON. Mr. President, I call up amendment No. 977.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 977.

Mr. DAYTON. Mr. 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 require that benefits be made available under part D on January 1, 2004)

On page 134, strike line 9 and insert the following:

under paragraph (1).

''(d) IMPLEMENTATION OF PART D.—Notwithstanding section 1860D–1(a)(4) or any other provision of this part or part C, the Secretary shall implement, and make benefits available under, this part on January 1, 2004. The Secretary shall carry out this part until the Administrator is appointed and able to carry out this part. The Secretary shall not implement sections 1807 and 1807A.

Mr. DAYTON. I thank my colleagues for the opportunity to discuss these three amendments this evening. They will be voted on later this week, and we will be calling them up for that purpose at that time.

During my campaign for the Senate in 2000, I promised a good prescription drug coverage program for senior citizens would be one of my very first priorities. In December of 2000, after my election but just before I took office, I went up to Duluth, MN, up in the northeastern part of our State, and met with a group of senior citizens. At the end of the meeting, an elderly woman, who was about half my size and twice my age, stood up and said: Mr. DAYTON, if you do not keep your promises, I am going to take you out behind the woodshed for an old-fashioned thrashing.

It has been then with some trepidation that I have visited Duluth in the months that followed, and it is not just Duluth. Everywhere in Minnesota our elderly citizens, and actually all of our other Medicare beneficiaries who stand to benefit from this legislation, have been waiting. They have been waiting patiently and they have been waiting impatiently for the Senate, the House, and the White House to reach an agreement on a bill, pass it, and then have the President sign it into law.

During the last several years, our seniors have watched the Senate pass a bill but not the House; the House act but not the Senate; both bodies fail to pass anything; both the House and the Senate pass a bill yet be unable to agree on one and nothing passed. Meanwhile, every year that Congress and the President did nothing, our senior citizens paid the price, and then they paid another price and then another.

Prescription drug prices have risen higher and higher in this country while nothing was being done to help. The financial burdens then fell harder on people with limited and fixed incomes. People who worked hard all of their lives, saved up a bit, retired, and did not have many other earning opportunities, were literally destroyed by the rapid escalation of prescription drug medicine, medicines they cannot afford not to have, medicines they cannot afford to have.

People's peace of mind was shattered. Hopes and plans had to be abandoned, ones that had been months and years in the making. Even modest comforts and simple enjoyments had to be sacrificed to pay this ravaging beast of the pharmaceutical industry that wanted more profits out of pockets, out of the sweat and blood of senior citizens and other Americans.

The financial security and the protections from destitution and despair, which Social Security and Medicare have provided our elderly for several decades and which was one of the great accomplishments of this society, was being rapidly eradicated by drug companies' greed and Congress's and the administration's inaction.

I thought on the day when we finally acted and passed a prescription drug coverage bill for senior citizens and other beneficiaries it would be cause for real celebration and satisfaction, and I could go back to Duluth. Well, it appears that this Friday may very well be that day where we will pass in the Senate prescription drug legislation, but the way it looks now I will not be celebrating the passage of the bill that is before us right now.

It is usually true that something is better than nothing, and the bill that is before us now is barely enough of something to be better than nothing. I will probably vote for it for that reason, but I will not be celebrating because there is not enough in this bill to be worthy of celebration. For starters, it does not even begin until January 1 of the year 2006. It is unbelievable there would be a 2½ year delay from the time this bill is signed into law before it is operational.

To let that stand is a violation of the Constitution which prohibits cruel and unusual punishment for American citizens. It is cruel and unusual punishment for the senior citizens of Minnesota and their counterparts of this country who have waited this long, year after year, waiting for this legislation, bills mounting. Finally something is passed and they are told they have to wait another 2½ years for the Federal Government and the insurance industry to set up this program. Shame on us if we do not move the development of this program from the sleepwalking mode into overdrive.

Proponents of this bill say the approach using subsidized insurance plans to provide this coverage is one of the advantages—they have postulated in the Senate and committee—because it is more efficient. The insurance companies are in the business of designing and selling insurance policies. How could they need 2½ years to develop this? If they do, it seems to me that is a very compelling reason to look for a different delivery system. Some believe that would be good for other reasons, as well.

My first amendment is named the bureaucracy booster to require whatever program we pass and whatever the President signs into law to be fully operational by January 1 of 2004, 2 years earlier than the President's schedule calls for. It would be 6 months after we pass our bill later this week. It took 6 months for our armed services to assemble their forces and prepare for the war against Iraq. They were ready to go when General Franks gave his order. If this country can get ready to win a war in 6 months—and actually the war against the Taliban in Afghanistan was assembled in about 6 weeks—it certainly can start to save our senior citizens in that same amount of time.

I am also troubled by the quality of the program which will hopefully be available to everyone on Medicare, if my amendment passes, next January 1. The coverage in the bill before the Senate is not very good. I don't fault the leaders of this bill who took it through the committee process. It was a very difficult task, with Members from all over the country. They were constrained by the budget this body passed earlier this year. You can slice and dice the programs and the delivery and the structuring but the bottom line is you will get what you pay for. Maybe it is better one way or the other but the bottom line is you get what you pay for. The Finance Committee had $400 billion over 10 years and they did the best they could, but the fact is that is not enough to provide the kind of coverage the senior citizens of this country have a right to expect. It provides only half the coverage we Members of the Senate and our colleagues in the House get through the Federal employees plan.

The bill before the Senate requires a $35 a month premium and a $275 deductible, so an enrollee pays $695 each year before receiving a single dollar of assistance. From that point, for all of his or her nonreimbursement prescription drugs above the $275 deductible, up to $4,500 in 1 year, the program would pay half. At that point, incredibly, the program pays nothing then for drug costs that exceed $4,500 for one person in one year, all the way up to $5,800. I understand that was done for the purpose of fitting within this budget cap. But it seems unfair to have a 50 percent program up to one point, then have the program disappear entirely for $1,300 of expenditures, but come back after $5,800, for the balance of the year, when the program pays 90 percent. The next year it starts all over again. For the first $5,800 in annual prescription drug costs out-of-pocket payments, nonreimbursed, a senior citizen of Minnesota or America has to pay $3,688 plus they have to pay $4,200 in monthly premiums. So the total payment for the senior citizen is $4,108 and the program will pay $2,012. The senior pays almost twice as much as the program assistance. So hundreds and thousands of dollars of expenses will be paid by a very limited and fixed-income senior citizen.

It is not a good deal. It is not what we ought to be providing for our seniors. It is not as generous as the alternative bill which our colleague, the Senator from Illinois, Senator DURBIN, has offered as an alternative amendment which I am proud to work on and cosponsor. That is the kind of program I would want my mother or father to be on. It is as good a program as members of the Senate have. It would have no deductible and pay for 70 percent of the costs from the very first $1 owed up

until $5,000 and 90 percent above that. That is a much better administrative feature.

What the pharmaceutical industry wants to the death to oppose is the Federal Government CMS, the Medicare administrators getting involved in negotiating down the prices. They have free and clear now, unlike virtually any other country in the world, ability to just raise prices for prescription drugs and raise them and raise them. They are making huge profits. Most of their worldwide profits are made in the United States of America not only with our seniors but all citizens because this body and the House and White House will not stand up and do something about it. Senator DURBIN's amendment would do something. I expect the pharmaceutical industry to oppose it to the death.

I have a second amendment which I call the taste of our own medicine amendment which says if the program we pass for Medicare beneficiaries is less advantageous than the one we receive under the Federal employees health plan, the coverage for all Members of Congress, the Senate and the House, will be reduced to the same level as the coverage provided for senior citizens and others under Medicare. If it is good enough for the seniors of America, it is as good as we should do for ourselves.

My third amendment is what I call my bureaucracy buster. Earlier I had bureaucracy booster to get the program operating early. This applies to all of Medicare. It would apply, I am told by the CEO of Mayo Clinic, to 130,000 pages of rules and regulations that make up the governance of Medicare. I was going to bring 130,000 pages over here as a graphic illustration, but it is a violation of Senate rules for decency and decorum. If anyone ever saw 130,000 pages piled up, they would agree. It is bigger than all the Harry Potter books, a lot bigger than anyone involved in Medicare had a chance to look at either to apply to their hospital or clinic or to enforce, and it is one piece of this epidemic of verbiage, duplicative regulation, multiple reporting requirements we have placed on doctors, hospitals, administrators, special education teachers, school superintendents, small business, large business, this plague of ever more and more and more regulations, more complicated, more lengthy, more time consuming. We are burying our society, burying our economy, burying our delivery systems to other people and we have to start turning that around.

This amendment requires the Secretary of Health and Human Services to come back to Congress by October 1 of 2004 with a revision to the Medicare regulations and rules that amounts to two-thirds of all the words that are now being used for those purposes. It would be a two-thirds reduction in the amount of regulation and reporting. That means we have to squeeze everything down into 45,000 pages. It will just have to be done.

If my colleagues will join me in agreeing to this amendment, once it has proven to be a viable idea, it is something I would like to apply to other regulatory and reporting mechanisms in the Federal Government as well.

I yield the floor.

Mr. BAUCUS. Mr. President, I ask unanimous consent the pending amendments be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 992

Mr. BAUCUS. Mr. President, on behalf of Senator STABENOW, I send an amendment to the desk regarding State rebate agreements.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Ms. STABENOW, for herself and Ms. SNOWE, proposes an amendment numbered 992.

Mr. BAUCUS. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify that the medicaid statute does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the medicaid program)

On page 158, between lines 4 and 5, insert the following:

(f) CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.—Section 1927 (42 U.S.C. 1396r–8) is amended by adding at the end the following:

''(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

''(1) directly entering into rebate agreements (on the State's own initiative or under a section 1115 waiver approved by the Secretary before, on, or after the date of enactment of this subsection) that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

''(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.''.

AMENDMENT NO. 993

Mr. BAUCUS. Mr. President, I ask unanimous consent all pending amendments be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. On behalf of Senator DORGAN, I offer an amendment with respect to coverage of cardiovascular screening tests. I send that to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. DORGAN, proposes an amendment numbered 993.

Mr. BAUCUS. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend title XVIII of the Social Security Act to provide for coverage of cardiovascular screening tests under the medicare program)

At the appropriate place in title IV, insert the following:

SEC. ___. COVERAGE OF CARDIOVASCULAR SCREENING TESTS.

(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)(iii), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(W) cardiovascular screening tests (as defined in subsection (ww)(1));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Cardiovascular Screening Tests

''(ww)(1) The term 'cardiovascular screening tests' means the following diagnostic tests for the early detection of cardiovascular disease:

''(A) Tests for the determination of cholesterol levels.

''(B) Tests for the determination of lipid levels of the blood.

''(C) Such other tests for cardiovascular disease as the Secretary may approve.

''(2)(A) Subject to subparagraph (B), the Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cardiovascular screening tests.

''(B) With respect to the frequency of cardiovascular screening tests approved by the Secretary under subparagraph (A), in no case may the frequency of such tests be more often than once every 2 years.''.

(c) FREQUENCY.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (H);

(2) by striking the semicolon at the end of subparagraph (I) and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(J) in the case of a cardiovascular screening test (as defined in section 1861(ww)(1)), which is performed more frequently than is covered under section 1861(ww)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

Mr. BAUCUS. 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. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

AMENDMENT NO. 974

Mr. GRASSLEY. I am going to call up my amendment numbered 974, which I filed on Friday. I am pleased to offer the Drug Competition Act of 2003.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. LEAHY, Ms. CANTWELL, Mr. DURBIN, and Mr. KOHL, proposes an amendment numbered 974.

The amendment follows:

(Purpose: To enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs)

At the appropriate place, insert the following:

TITLE ____—DRUG COMPETITION ACT OF 2003

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Drug Competition Act of 2003''.

SEC. ___02. FINDINGS.

Congress finds that—

(1) prescription drug prices are increasing at an alarming rate and are a major worry of many senior citizens and American families;

(2) there is a potential for companies with patent rights regarding brand name drugs and companies which could manufacture generic versions of such drugs to enter into financial deals that could tend to restrain trade and greatly reduce competition and increase prescription drug expenditures for American citizens; and

(3) enhancing competition among these companies can significantly reduce prescription drug expenditures for Americans.

SEC. ___03. PURPOSES.

The purposes of this title are—

(1) to provide timely notice to the Department of Justice and the Federal Trade Commission regarding agreements between companies with patent rights regarding brand name drugs and companies which could manufacture generic versions of such drugs; and

(2) by providing timely notice, to enhance the effectiveness and efficiency of the enforcement of the antitrust and competition laws of the United States.

SEC. ___04. DEFINITIONS.

In this title:

(1) ANDA.—The term ''ANDA'' means an Abbreviated New Drug Application, as defined under section 201(aa) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(aa)).

(2) ASSISTANT ATTORNEY GENERAL.—The term ''Assistant Attorney General'' means the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

(3) BRAND NAME DRUG.—The term ''brand name drug'' means a drug approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)).

(4) BRAND NAME DRUG COMPANY.—The term ''brand name drug company'' means the party that received Food and Drug Administration approval to market a brand name drug pursuant to an NDA, where that drug is the subject of an ANDA, or a party owning or controlling enforcement of any patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations of the Food and Drug Administration for that drug, under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

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

(6) GENERIC DRUG.—The term ''generic drug'' means a product that the Food and Drug Administration has approved under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

(7) GENERIC DRUG APPLICANT.—The term ''generic drug applicant'' means a person who has filed or received approval for an ANDA under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

(8) NDA.—The term ''NDA'' means a New Drug Application, as defined under section 505(b) et seq. of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b) et seq.)

SEC. ___05. NOTIFICATION OF AGREEMENTS.

(a) IN GENERAL.—

(1) REQUIREMENT.—A generic drug applicant that has submitted an ANDA containing a certification under section 505(j)(2)(vii)(IV) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)(vii)(IV)) and a brand name drug company that enter into an agreement described in paragraph (2), prior to the generic drug that is the subject of the application entering the market, shall each file the agreement as required by subsection (b).

(2) DEFINITION.—An agreement described in this paragraph is an agreement regarding—

(A) the manufacture, marketing or sale of the brand name drug that is the subject of the generic drug applicant's ANDA;

(B) the manufacture, marketing or sale of the generic drug that is the subject of the generic drug applicant's ANDA; or

(C) the 180-day period referred to in section 505(j)(5)(B)(iv) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)(B)(iv)) as it applies to such ANDA or to any other ANDA based on the same brand name drug.

(b) FILING.—

(1) AGREEMENT.—The generic drug applicant and the brand name drug company entering into an agreement described in subsection (a)(2) shall file with the Assistant Attorney General and the Commission the text of any such agreement, except that the generic drug applicant and the brand-name drug company shall not be required to file an agreement that solely concerns—

(A) purchase orders for raw material supplies;

(B) equipment and facility contracts;

(C) employment or consulting contracts; or

(D) packaging and labeling contracts.

(2) OTHER AGREEMENTS.—The generic drug applicant and the brand name drug company entering into an agreement described in subsection (a)(2) shall file with the Assistant Attorney General and the Commission the text of any other agreements not described in subsection (a)(2) between the generic drug applicant and the brand name drug company which are contingent upon, provide a contingent condition for, or are otherwise related to an agreement which must be filed under this title.

(3) DESCRIPTION.—In the event that any agreement required to be filed by paragraph (1) or (2) has not been reduced to text, both the generic drug applicant and the brand name drug company shall file written descriptions of the non-textual agreement or agreements that must be filed sufficient to reveal all of the terms of the agreement or agreements.

SEC. ___06. FILING DEADLINES.

Any filing required under section 5 shall be filed with the Assistant Attorney General and the Commission not later than 10 business days after the date the agreements are executed.

SEC. ___07. DISCLOSURE EXEMPTION.

Any information or documentary material filed with the Assistant Attorney General or the Commission pursuant to this title shall be exempt from disclosure under section 552 of title 5, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

SEC. ___08. ENFORCEMENT.

(a) CIVIL PENALTY.—Any brand name drug company or generic drug applicant which fails to comply with any provision of this title shall be liable for a civil penalty of not more than $11,000, for each day during which such entity is in violation of this title. Such penalty may be recovered in a civil action brought by the United States, or brought by the Commission in accordance with the procedures established in section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)).

(b) COMPLIANCE AND EQUITABLE RELIEF.—If any brand name drug company or generic drug applicant fails to comply with any provision of this title, the United States district court may order compliance, and may grant such other equitable relief as the court in its discretion determines necessary or appropriate, upon application of the Assistant Attorney General or the Commission.

SEC. ___09. RULEMAKING.

The Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5 United States Code, consistent with the purposes of this title—

(1) may define the terms used in this title;

(2) may exempt classes of persons or agreements from the requirements of this title; and

(3) may prescribe such other rules as may be necessary and appropriate to carry out the purposes of this title.

SEC. ___10. SAVINGS CLAUSE.

Any action taken by the Assistant Attorney General or the Commission, or any failure of the Assistant Attorney General or the Commission to take action, under this title shall not bar any proceeding or any action with respect to any agreement between a brand name drug company and a generic drug applicant at any time under any other provision of law, nor shall any filing under this title constitute or create a presumption of any violation of any antitrust or competition laws.

SEC. ___11. EFFECTIVE DATE.

This title shall—

(1) take effect 30 days after the date of enactment of this title; and

(2) shall apply to agreements described in section ____05 that are entered into 30 days after the date of enactment of this title.

Mr. GRASSLEY. This is the Drug Competition Act of 2003. I filed it as an amendment to S. 1. I do it in a bipartisan way with Senator LEAHY and many others.

Our amendment will help Federal regulators ensure that antitrust laws are not being violated and that there is full and unfettered access to competition for prescription drugs under the law.

What I want to do is make sure American consumers—and in the case of prescription drugs for Medicare, senior citizens—are able to get the lifesaving drugs they need and to do it in a competitive manner with resulting lower prices.

Our patent laws provide drug companies with incentives to invest in the research and development of new drugs,

but the law also provides that generic drug companies have the ability to get their own drugs on the market so there can be price competition and lower prices for prescription drugs. We have a legal system in place that provides such a balance; that is, the Hatch-Waxman law. Ultimately, we want consumers and seniors to have more choices and to get drugs at lower prices.

So I was concerned when I heard reports that the Federal Trade Commission had brought enforcement actions against brand-name and generic drug manufacturers that had entered into anticompetitive agreements, resulting in the delay of the introduction of lower priced drugs. Our amendment targets this problem.

I would like to explain in a little more detail the problem. Under the Hatch-Waxman Act, manufacturers of generic drugs are encouraged to challenge weak or invalid patents on brand-name drugs so that consumers can benefit from lower generic drug prices. Current law gives temporary protection from competition to the first generic drug manufacturer that gets exclusive permission to sell a generic drug before the patent on the brand-name drug expires. This gives the generic firm, then, a 180-day head start on all other generic companies.

However, the FTC discovered that some companies were exploiting this law by entering into secret deals, which allowed the generic drugmakers to claim a 180-day grace period, and to block, then, other generic drugs from entering the market, while at the same time getting paid by the brand-name manufacturer for withholding sales of generic versions of the drug. Quite a sweet deal.

This meant, then, under this sweet deal, that consumers continued to pay high prices for drugs rather than benefiting from more competition and consequently lower prices.

The Federal Trade Commission brought antitrust law enforcement actions against the brand-name and generic drug companies that had engaged in this anticompetitive behavior. In addition, the Federal Trade Commission conducted a comprehensive review of agreements that impacted the 180-day exclusivity period. The FTC found that there are competition problems with some of these agreements that potentially delayed generic drugs entering the market—just the opposite of what the FTC wanted to happen. So the FTC made this recommendation:

Given this history, we believe that notification of such agreements to the Federal Trade Commission and the U.S. Department of Justice is warranted. We support the Drug Competition Act of 2001, introduced by Senator LEAHY, as reported by the Committee on the Judiciary.

As the Federal Trade Commission has indicated in its report, the Grassley-Leahy amendment, the Drug Competition Act of 2003, is a simple solution to the 180-day exclusivity period and the problems the FTC has identified. Our amendment would require drug companies that enter into agreements relating to the 180-day period to file documents, those very documents with the FTC and the Department of Justice. Our amendment would impose sanctions on companies that do not provide timely notification. This process would facilitate agency review of the agreements. It would do it to determine whether they have anticompetitive effects. Making sure the agreement between the generic and brand-name drug companies is in compliance with the law is good for the American consumer because it guarantees free, full, and fair competition.

Both Senator LEAHY and I worked with the Federal Trade Commission and the Department of Justice, the generic and brand-name drug companies, and other interested groups in crafting the language contained in this amendment, and I think we have a very good work product that I am offering the Senate. We tried to address everyone's concerns and we tried to limit the scope of the act. We also made every attempt to ensure that the notification requirement did not unnecessarily burden industry.

I am not aware of any opposition to this language. In fact, the Drug Competition Act, passed out of the Judiciary Committee and the full Senate last year by unanimous consent, and the Federal Trade Commission report came out in full support of the Grassley-Leahy amendment as a way to help preserve healthy and open competition in the drug markets.

The Grassley-Leahy amendment will ensure that consumers ultimately are not hurt by secret, anticompetitive contracts, so the consumer can get competition and lower drug prices almost immediately. I urge my colleagues to support the Grassley-Leahy amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding a number of Senators have offered amendments. I assume they have been sending them to the desk and setting them aside. Is that correct?

That is what I would like to do before we adjourn this evening.

AMENDMENT NO. 994

Mr. President, this is an amendment I have discussed with my colleagues and have spoken about on the Senate floor a few times. It is in the nature of a substitute to the underlying bill.

Let me say, though I have had many differences with my friend from Iowa about a variety of different matters we have worked on over the years, I congratulate both him and Senator BAUCUS for their leadership. I think what they have done is bring the Senate to this moment in our history where we are seriously considering a prescription drug program that will benefit the tens of millions of seniors across America. And this conversation is long overdue.

I think what they have proposed is a worthy start for a commitment that needs to be made. I think there isn't a Senator who comes to this floor who has not been back to his or her State to hear of the tales and stories of families and the struggles they are going through in paying for prescription drugs.

I was back in my hometown of Springfield, IL, over the weekend for a wedding, and out of nowhere people started coming up to me and talking about prescription drug costs: I know you are debating this in Washington.

I think this is a timely discussion. I hope, at the end of the discussion, we will have a bill that really does achieve what we hope to achieve. I think making a national commitment to a prescription drug program under Medicare is the right thing to do, but I think we need to do it with our eyes wide open.

There are several facts we should consider. Let me give you illustrations. One of them is the cost of prescription drugs is going to continue to rise dramatically unless we address it, and address it head on. They say the cost of prescription drugs goes up 10 to 20 percent a year. You can ask any senior or family and they can tell you that story.

What troubles me about the underlying bill is it does not have competitive forces that will bring these costs down. It provides for a percentage helping hand to seniors to pay for their prescription drug bills, but that percentage becomes less and less as the overall cost of prescription drugs continues to grow out of hand. The substitute amendment which I am offering is going to address this, I hope, in a meaningful way.

Just last Friday—I guess a surprise vote to some—we decided to allow America's seniors to import drugs from Canada. Why did we do that? Because everybody knows the story: The very same American drug companies that make these products in America, when they turn to sell them in Canada, give them a deep discount. Why? Because the Canadian Government says to them: If you want to sell drugs in Canada, then you have to discount the cost to Canadian citizens.

So here we are, in our States bordering Canada, just a few miles away from pharmacies in Canada selling identical drugs to those sold in America at a fraction of the cost. Now, of course, that is a benefit to Canadian citizens. And we decided last Friday we would make certain that benefit was there for American citizens.

We can reimport drugs—in other words, made in the United States, shipped to Canada for sale. We will now, under the amendment we adopted by Senator DORGAN of North Dakota, allow Americans to repurchase the drugs from Canadian pharmacies to bring them back into the United States. Isn't that an awkward, clumsy,

and convoluted way to provide a discount to America's seniors? It certainly is. But we voted for it on a pretty substantial rollcall. I think over 60 Senators supported it because we understand for many seniors that Canadian discount makes all the difference in the world.

Unfortunately, this reimportation from Canada is temporary, and it is not a permanent part of what we are debating here. In fact, there are few, if any, elements in this underlying legislation that give seniors in America a fighting chance to get anywhere near the discounted prices being offered to families in Canada for the prescription drugs they need. In other words, we are offering a helping hand from the Government to pay for your prescription drugs, but offering no force or no element—certainly very little—within this bill to try to reduce and control prices.

You may think: Is Canada that powerful that they can dictate to the American drug companies they have to discount their prices? Well, I can tell you, the Canadian market represents about 2 percent—2 percent—of the sales by American drug companies, whereas the United States market represents 53 percent. If we, as a nation, turned to these same drug companies that have bargained with Canada and said: ''We want the same thing for Americans,'' you can bet we would achieve it. But this bill does not do that. The Grassley-Baucus bill does not do this. It does not create this force for competition and this force for bringing down costs.

Some will come to the floor and say: Durbin, this amendment is nothing short of socialism. You are trying, with a radical idea, to change the market structure in America, take away the free market competition, and dictate prices, and that is just unfair. We should not do it. And that is not American.

Well, I would ask them to place a call to the Veterans' Administration because the Veterans' Administration already does the same thing. The Veterans' Administration bargains for our veterans so the prescription drugs they receive are at a reduced cost. Why, if our Government will stand up for our veterans to get reduced costs for prescription drugs, is that any different than saying, under this bill, we should also be bargaining to make certain we can bring down prescription drug costs across the board? It will mean the program is more affordable for seniors. It will also mean the money we dedicate to the program will be with us for a while, a lot longer than as proposed under this bill.

So we do several things in this substitute amendment. I am not going to take any further time other than to just say a few words about this amendment, who supports it, and what it stands to achieve.

It is being offered on my behalf, as well as Senators CORZINE, HARKIN, BOXER, STABENOW, DAYTON, and BYRD. It has been endorsed, to this point—we think other endorsements will come—by the Alliance for Retired Americans as well as the National Committee to Preserve Social Security and Medicare.

Here is what it does. It defines the benefits in statute. The underlying bill does not. It eliminates the coverage gap. The underlying bill has a coverage gap, where, after a senior has spent a certain amount of money for prescription drugs, there is no coverage until it reaches a catastrophic level over $5,000. It eliminates the deductible of $275 proposed by this bill because we found with price competition we can bring down the overall cost. It increases cost sharing. It guarantees a stable fallback. In other words, if there is not a private prescription benefit pharmacy manager offering alternatives to seniors, we allow Medicare itself to offer a prescription drug plan. That is a fallback always available under our bill. You do not have to be eliminated from the one to offer the other. This is always a fallback. And it allows employer coverage to count toward out-of-pocket spending.

The average cost for prescription drugs for seniors in this year is expected to be approximately $2,300. Under this bill we are considering on the floor today, seniors could get back maybe one fourth of that, $600. Every dollar counts and I commend my leaders in the Finance Committee for bringing this to us, but it is $600. Under the MediSAVE plan, my substitute amendment, seniors will have no deductible, lower cost-sharing, and face no coverage gap. The average senior can save up to 50 percent of the cost of those $2,300 in drugs, almost double what is offered by the underlying bill.

There is no guaranteed benefit for seniors in the underlying bill, and premiums are left up to insurance companies to decide. Under the MediSAVE plan, which I will offer, the Medicare-delivered benefit is outlined in statute so all seniors who choose to receive their benefit through Medicare will be guaranteed the same package, the same premium, no matter where they live in America.

As I said before, we address skyrocketing drug prices whereas the underlying bill does not. Incidentally, the Veterans' Administration has saved about $943 million in the past 6 years because it has bargained with the drug companies on behalf of seniors.

We also maintain choice. I see some of my Republicans friends have sent a letter to the President saying: We have to allow for innovation. We have to allow for competition. Agreed. We say: Fine, private groups and insurance companies can offer the prescription drug benefit as an option, seniors get to choose. But they always have a Medicare fallback they can choose.

Some say: We don't want this Government agency running this. Why do we want a Government agency in charge of it? Well, because Medicare has no profit motive. Medicare has a low administrative cost. If the VA runs the program for veterans and we don't consider that socialism, what is wrong with the idea of having Medicare in here competing with these private insurance companies. Eighty-nine percent of seniors today stick with Medicare rather than going to some HMO choice plan and/or private plan under Medicare. That tells you they like Medicare better. Why should we deny them this chance under prescription drugs.

MediSAVE creates a reliable fallback that is Medicare, and I think that is good for seniors. And MediSAVE will incentivize employers to maintain benefits. This is a fear we have. We don't want to do anything that will hurt the employers currently helping retired seniors, and we want to make certain we encourage their continued participation.

Under S. 1, funds employers put toward retiree costs don't count toward the retiree's Medicare out-of-pocket cost. Under MediSAVE, they would count.

Mr. President, I know it is late. I know a number of amendments have been offered. But at this point I would like to send my amendment to the desk and ask that it be read and then held at the desk.

Mr. GRASSLEY. Mr. President, reserving the right to object, I assume he asked unanimous consent to set the amendments aside.

Mr. DURBIN. Which I will do. I will send the amendment to the desk. I don't know if it should be reported at this moment, but I ask it be set aside.

Mr. GRASSLEY. Could I say this: If you would allow me, rather than reserving the right to object, when he asks unanimous consent to set aside an amendment to offer his amendment, I am not going to object to that. But the leader has asked we have no more amendments tonight. So I would then be forced to object to any other amendments from either side that would come up.

The PRESIDING OFFICER. Does the Senator object to this amendment at this time, or does anybody else object to it?

Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. CORZINE, Mr. HARKIN, Mrs. BOXER, Ms. STABENOW, Mr. DAYTON, and Mr. BYRD proposes an amendment numbered 994.

The amendment is as follows:

(Purpose: To deliver a meaningful benefit and lower prescription drug prices)

Beginning on page 48, strike line 13 through page 50, line 2 and insert the following:

''(1) NO DEDUCTIBLE.—

''(A) IN GENERAL.—The coverage provides for benefits without the application of a deductible.

''(B) APPLICATION.—Notwithstanding the succeeding provisions of this part, the Administrator shall not apply section 1860D–19(a)(3)(A)(ii).

''(2) LIMITS ON COST-SHARING.—

''(A) IN GENERAL.—The coverage has cost-sharing (for costs up to the annual out-of-pocket limit under paragraph (4)) that is equal to 30 percent or that is actuarially consistent (using processes established under subsection (f)) with an average expected payment of 30 percent of such costs.

''(B) APPLICATION.—Notwithstanding the succeeding provisions of this part, the Administrator shall not apply subsection (d)(1)(C) and paragraphs (1)(D), (2)(D), and (3)(A)(iv) of section 1860D–19(a). 2

On page 50, line 15, strike ''$3,700'' and insert ''$1,500''.

On page 51, strike lines 15 through 25 and insert the following:

''(ii) such costs shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

Beginning on page 77, strike line 10 and all that follows through page 84, line 7, and insert the following:

''(e) MEDICARE OPERATED PLAN OPTION.—

''(1) ACCESS.—The Administrator shall establish and operate a national plan to provide any eligible beneficiary enrolled under this part (and not, except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage, enrolled in a MedicareAdvantage plan) electing such plan with standard prescription drug coverage. Under such plan, the Administrator shall negotiate with pharmaceutical manufacturers with respect to the purchase price of covered drugs and shall encourage the use of more affordable therapeutic equivalents to the extent such practices do not override medical necessity as determined by the prescribing physician. To the extent practicable and consistent with the previous sentence, the Administrator shall implement strategies similar to those used by other Federal purchasers of prescription drugs, and other strategies, to reduce the purchase cost of covered drugs. Eligible beneficiaries enrolled under this part shall have the option of enrolling in such plan or in a Medicare Prescription Drug plan or a MedicareAdvantage plan available in the area in which the beneficiary resides.

''(2) MONTHLY BENEFICIARY OBLIGATION FOR ENROLLMENT.—

''(A) IN GENERAL.—In the case of an eligible beneficiary enrolled in the plan operated by the Administrator under paragraph (1), the monthly beneficiary obligation of such beneficiary for such enrollment shall be—

''(i) for months in the first year of implementation, $35; and

''(ii) for months in a subsequent year, the lesser of—

''(I) the amount determined under this paragraph for months in the previous year, increased by the annual percentage increase described in section 1860D–6(c)(5) for the year involved; or

''(II) in the case of months in years prior to 2014, the specified amount.

''(B) SPECIFIED AMOUNT.—For purposes of this paragraph, the term 'specified amount' means—

''(i) for months in the second year of implementation, $37;

''(ii) for months in the third year of implementation, $40;

''(iii) for months in the fourth year of implementation, $43;

''(iv) for months in the fifth year of implementation, $46;

''(v) for months in the sixth year of implementation, $51;

''(vi) for months in the seventh year of implementation, $54; and

''(vii) for months in the eighth year of implementation, $59.

''(3) NO AFFECT ON ACCESS REQUIREMENTS.—The plan operated by the Administrator under paragraph (1) shall be in addition to the plans required under subsection (d)(1).

''(4) REQUIREMENT TO PREVENT INCREASED COSTS.—If the Administrator determines that Federal payments made with respect to eligible beneficiaries enrolled in the plan operated by the Administrator under paragraph (1) exceed on average the Federal payments made with respect to eligible beneficiaries enrolled in a Medicare Prescription Drug plan or a MedicareAdvantage plan (with respect to qualified prescription drug coverage), the Administrator shall adjust the requirements or payments under such a contract to eliminate such excess.

''(f) TWO-YEAR CONTRACTS.—A contract approved under this section for a Medicare Prescription Drug plan shall be for a 2-year period.

''(g) IMPLEMENTATION OF PART D.—Notwithstanding any other provision of this part or part C, the Secretary shall implement, and make benefits available under, this part as soon as practicable after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, but in no case later than January 1, 2006. The Secretary shall carry out this part until the Administrator is appointed and able to carry out this part.

On page 134, strike line 9 and insert the following:

under paragraph (1).

''(d) SPECIAL RULES FOR STATE PHARMACEUTICAL ASSISTANCE PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, in the case of the sponsor of a State pharmaceutical assistance program that seeks to offer a Medicare Prescription Drug plan under this part, the following special rules apply:

''(A) WAIVER OF LICENSURE.—Section 1860D–7(a)(1) shall not apply.

''(B) PERMITTING LIMITATION ON ENROLLMENT.—The sponsor may restrict eligibility to enroll in the plan to those low-income individuals who qualify (or meet the standards for qualification) for the State pharmaceutical assistance program.

''(C) OTHER REQUIREMENTS.—The Administrator may waive such other requirements of this part as the Administrator finds appropriate to promote the role of State pharmaceutical assistance programs under this part.

''(2) DEFINITION.—For purposes of this part, the term 'State pharmaceutical assistance program' means a program, in operation as of the date of enactment of this title, that is sponsored or underwritten by a State, that was established pursuant to a waiver under section 1115 or otherwise, and that provides financial assistance with out-of-pocket expenses with respect to covered outpatient drugs for individuals in the State who meet income-related qualifications specified under such program.

''(3) CONSTRUCTION.—Nothing in this subsection shall affect the provisions of subsection (b).''.

At the end of title VI, add the following:

SEC. ___. NEED FOR RENEWAL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of, and amendments made by, this Act shall remain in effect but shall be superseded by the Director of the Office of Management and Budget on the date that the total of the increased Federal expenditures by reason of such amendments and provisions has reached $400,000,000,000.

(b) APPLICATION.—Any provision of law amended or effected by this Act shall be applied and administered after the date described in subsection (a) as if the provisions of, and amendments made by, this Act had never been enacted.

(c) NOTIFICATION.—The Director of the Office of Management and Budget shall notify Congress 6 months prior to the date that the provisions of, and amendments made by, this Act will be superseded pursuant to subsection (a).

Mr. DURBIN. I thank the Senator from Iowa and my colleagues.

Mr. REID. Before the Senator yields the floor, would the Senator yield for a question?

Mr. DURBIN. Yes.

Mr. REID. This is a little off point, but we are talking about jobs. Is the Senator from Illinois aware that the Bureau of Labor Statistics issued its latest unemployment figures today?

Mr. DURBIN. I did not see those.

Mr. REID. Would the Senator be surprised that under this administration, which is always talking about what a great job they are doing with the economy, we now have the highest unemployment rate in 106 months; it has jumped up now to over 6 percent? Is the Senator surprised at that number?

Mr. DURBIN. I wish I was, but we have lost 2 million jobs under this administration already. So it is no surprise we continue to lose jobs in America. I am sure it is tough in Nevada. It is tough in Illinois. We have lost good paying jobs. I run into a lot of people who, frankly, have no place to turn in this economy.

Mr. REID. Highest unemployment in 106 months.

Mr. DURBIN. I would just suggest to the Senator from Nevada, it is curious to me that the President, with his tax cut program for stimulating the economy, had his first chance at it. The Senator can refresh my memory. Two years ago didn't we cut taxes, as the President suggested, primarily for the higher income individuals?

Mr. REID. For job creation.

Mr. DURBIN. Wasn't that about $1 trillion or more in tax cuts we were proposing for job creation?

Mr. REID. I would respond to my friend, if the last tax cut we had creates as many jobs as the first tax cut, we are in big trouble.

Mr. DURBIN. I would say there is that old adage that once you are in a hole, the first thing you do is stop digging. If I am not mistaken, didn't this administration come back and want to dig that tax cut hole deeper within the last few months, and still we see these job statistics telling us this is a failed economic policy?

Mr. REID. My friend is right. The Bureau of Labor Statistics found that national unemployment had increased in April to more than 6 percent, highest unemployment in 106 months.

Mr. DURBIN. I would like to ask the Senator from Nevada, was he aware of the fact we are now proposing the creation of jobs in Iraq, and some people have said we are going to create jobs where frankly we will give money to the people of Iraq, but they don't to have show up for work for a while? That might go over pretty well in my State if we would like to create a program like that. But I would like to ask

the Senator, we are talking about the fact that this President took over after the economy had grown at a record pace for 7 or 8 years under first his father and then under President Clinton.

Mr. REID. I respond to my friend there is some dispute as to what the 10-year surplus was when he took office. Some say $7.1 trillion. Some say 6.2. But trillions of dollars over 10 years. And in fact, the last 3 years of the Clinton administration we had been spending less money than we were taking in. We were retiring the debt. But we are not worried about that anymore. We will have this year, some say, a debt as much as $600 billion, of course, not counting the Social Security surpluses which are used to disguise this. So I don't know where all this great economy is. It is not in Nevada.

Mr. DURBIN. I ask the Senator, would that $600 billion debt, if that is what we end up with, would that break the record under the Reagan administration which I believe was in the hundred billion dollar range?

Mr. REID. The debt this year will be the largest in the history of the world, not only the United States.

Mr. DURBIN. I would like to ask the Senator from Nevada, a lot of the fiscal conservative Republicans used to say you had to have fiscal discipline, get your house in order. Is he hearing the same thing I am hearing from those same fiscal conservative Republicans now, that deficits don't count, debt doesn't count?

Mr. REID. We not only have statements that would fill volumes about how bad the deficit was. And, in fact, I can remember Alan Greenspan telling us the most important thing we could do—he appeared before the Appropriations Committee—was get rid of the annual deficits. We followed his advice and did that. He is still chairman of the Federal Reserve. I wonder why he is not talking now along those same lines.

Mr. DURBIN. It is a curious thing. I recall when President Clinton was preparing to take office, that same Chairman Greenspan came to Little Rock in the transition and said: The most important thing you can do for the long-term economy is to reduce the long-term interest rates which means get serious about the deficit. President Clinton took that to heart. I think the Senator, was in the Senate, and I was in the House when President Clinton came in with his budget, which didn't get a single Republican vote in the House or the Senate. It passed in the Senate with the tie-breaking vote by Vice President Gore and then, because the Democrats stood up and did what was right for the economy, we saw this dramatic period of economic growth where people's savings were growing, retirement plans were growing, where we created some 22 million new jobs, inflation was under control, new housing starts, new businesses. And we are not talking about the deep dark recesses of American history. This was just a few years ago.

Now in 2½ years, it is amazing what this President has achieved. He has managed to lose jobs at a faster pace than any President in history and create the largest deficit in the history of the United States, all in the name of fiscal conservatism. It is really hard to imagine anyone can say with a straight face that is a conservative, disciplined approach to dealing with the budget.

I am sure in Nevada and Illinois the people don't like this economic policy and what it has meant.

Mr. REID. This is something I can't understand, why there is so much silence on the other side of the aisle about these huge annual deficits he has created, especially since when he took office we were spending less money than we were taking in. To think that the country is in such deep trouble. Does the Senator realize parts of our national parks are actually closing because of a state of disrepair, our great national parks? We have money in our highway trust fund that people pay when they go to the gas pump, but this money is not being used for highways. We are trying to come up with a highway bill, but the President is not allowing us to spend the money on highways. He wants to spend it on jobs in Iraq. I don't know what he wants to spend it on.

I didn't answer the one question the Senator asked about Iraq. Not only are they trying to create jobs in Iraq, they are now talking about paying Saddam Hussein's army for back pay while they were fighting Americans. Is the Senator aware of that?

Mr. DURBIN. I was not aware of that. I certainly want to see stability in Iraq. We all do, because otherwise it could disintegrate into another vacuum, a terrorist training ground. We don't want that to happen.

But it is curious to me, when it comes to the military cost of that war and the cost of reconstruction, there is no end in sight. It doesn't seem to bother people from the administration to continue to call for billions of dollars for this purpose.

But I would like to ask the Senator from Nevada this. He was serving here, as I was, when this President came in with something called No Child Left Behind, where we were going to send money to the schools across America for accountability and testing and upgrading of teacher skills. If I am not mistaken, this President had a White House bill signing ceremony, with Democrats and Republicans all applauding his No Child Left Behind. Yet when we look at the budget that was sent to us by this President, he is not providing the resources that we know will be needed for these schools. The Senator's State, I think, may be leading the Nation in the growth of school enrollment. In my State, we are struggling with our own deficit and cutbacks of State assistance to school districts.

So here we have President Bush's new mandates in No Child Left Behind, with no money to pay for them, while the local sources of revenue, from State sources and local property taxes, cannot keep up with demand. So what the President has done by saying we are going to focus this money on other things and tax cuts is shortchange education.

Mr. REID. Mr. President, I spoke to our State legislature and I said the President's No Child Left Behind Act is leaving lots of children behind. There was a little criticism for my having said that. But I was right.

In the State of Nevada, as we speak, the Clark County School District, which is the fifth largest school district in America, is talking about cutting back the school week to 4 days. Some of the good programs, such as the athletic programs, which I believe in, and programs dealing with the band and drama they are talking about eliminating, and they are talking about doing away with the programs for the academically talented. In fact, unless the legislature can get some resources from the State of Nevada—they don't expect anything from the Federal Government—the Clark County School District is talking about stopping all-year-around school. We have a year-round school district. They have been talking about closing schools. Well, talk about leaving some kids behind; that is it.

Mr. DURBIN. I don't think many Americans would argue that our children are overeducated. I know the State of Oregon closed their schools earlier this year, and the idea that we would eliminate part of the school year, afterschool programs, and summer school programs, to me, means these young people are not going to be given the chance they need to improve themselves.

I know the Senator from Nevada, probably more than anybody in this Chamber, has focused on the dropout issue. If we don't really have a sensitivity to the number of kids dropping out, we should not be surprised at what is happening to them. They end up with lives that are not as productive as they could be, and sometimes they end up in tragedy. If you are going to cut back on the school year, a child who really needs a helping hand to be a good student is more likely to be discouraged and less likely to be educated. How can that be good for our Nation? I know the Senator has focused on the dropout rate in the past.

Mr. REID. Senator BINGAMAN and I worked for a number of years to try to create within the Department of Education an education czar because children who drop out of school are never what they could be. We have so many students dropping out of school, and it is a shame. Those children who drop out of school will be relegated to menial work for the rest of their lives—if they are fortunate to be able to have any kind of work.

So the afterschool programs, which the Senator from Illinois and Senator

BOXER have worked on for years, are programs that, in most States, they are not even considering anymore.

Mr. DURBIN. Is it unfair, then, to bring this together and say if we are going to see this President continue to put unfunded mandates on schools and not put the Federal dollars into education, and we are going to see education cut back at the State and local level, that is going to lessen the opportunity for children to pick up the skills and education they want? This is no way to deal with an unemployment problem. Frankly, it is a way to guarantee that that problem is going to become chronic and long term because we are not investing in making young people productive and educated.

So the No Child Left Behind program and the unfunded mandate by the Bush White House really was lost to this whole argument about tax cuts. The President says we need tax cuts for jobs and growth. It just hasn't worked. As the Senator from Nevada reported today—I forget the number—it has been over 100 months since we have had such high unemployment.

Mr. REID. It has been 106 months.

Mr. DURBIN. So that is somewhere a little less than 9 years to go back to a period of time with the unemployment that high. It doesn't appear that the President's first tax cut has kicked in. If it has, it kicked a lot of people out of work. We ought to think long and hard about whether we continue down this path.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FITZGERALD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I ask unanimous consent that at 11 a.m. on Tuesday, June 24, the Senate proceed to a vote in relation to the Rockefeller amendment No. 976, provided that immediately following that vote and 2 minutes of debate equally divided, the Senate then proceed to vote in relation to the Bingaman amendment No. 984; further, at 2:15 there be 10 minutes equally divided prior to the vote in relation to the Dodd amendment No. 969, with no second-degree amendments in order to the above mentioned amendments prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO BEVERLY RICHARDSON

• Mr. BUNNING. Mr. President, I rise today to pay tribute to Mrs. Beverly Richardson of Hancock County, KY, for her legacy of service to others. Her contributions to our Commonwealth as director of the Hancock County Career Center have made all the difference in the lives of countless Kentuckians.

In 1997, when the Hancock County Career Center was initially established, Beverly Richardson, who is a proud Western Kentucky University graduate, took on the role as director, enabling her the opportunity to shape the lives of many unemployed individuals who are now working. Throughout her tenure as director, she has improved the lives of a variety of people from high school dropouts seeking to earn a general education degree, to unemployed workers in need of greater job skills to increase their competitiveness in the job market. The values and beliefs Beverly brought to the Hancock County Career Center aided her in facing the challenges she met and the opportunities each day brought as a coordinator of the center's activities.

While assisting Kentucky residents in gaining more job skills and greater confidence was a wonderful accomplishment in her life, no achievement was more notable than that of raising her four children with her husband Wendell. Together, they raised four college graduates who have paved career paths of their own and given her and Wendell many grandchildren.

Beverly Richardson's devotion to education and job training has improved the vitality of Kentucky's economy, enhanced the capabilities of so many workers, and strengthened the character of individuals and families. Employers and employees alike throughout Kentucky owe her a debt of gratitude. Her example should be emulated across America. I thank the Senate for allowing me to recognize Ruth and voice her praises. She is Kentucky at its finest.•

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 at Fort Campbell, KY. A little after 3 in the morning on July 5, 1999, PFC Barry L. Winchell was forced outside his barracks where he was stationed and brutally beaten with a baseball bat by another Army private. Winchell died of his injuries the following day. Army officials and sources close to Winchell believe that his death was motivated by antigay bias.

I believe 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.•

HONORING FRANK A DUBOIS

• Mr. DOMENICI. Mr. President, I rise before you today to pay respect and to commend the accomplishments of a great New Mexican.

Frank A. DuBois has given the past 30 years of his life serving the agricultural producers and citizens of New Mexico. His vision and philanthropic attitude is clear when looking back to the deeds accomplished by this great man.

On June 1st, Mr. DuBois retired from his position as director of the New Mexico Department of Agriculture after 15 years. During this time, Mr. DuBois also served as cabinet secretary for four Governors. Throughout his tenure with the New Mexico Department of Agriculture, Frank worked as a field inspector, agricultural policy specialist, assistant director and, finally, director.

In addition to these great accomplishments, Frank also worked as my legislative assistant and then went on to serve as the Deputy Secretary for Land and Water Resources with the U.S. Department of the Interior.

Frank has also dedicated a large part of his life to the rodeo. In fall 2000, Frank set up the Dubois Rodeo Scholarship to help aspiring rodeo athletes at New Mexico State University. To date, 18 students from NMSU have received financial aid to help them focus more on school and their rodeo activities, rather than having to worry about meeting the financial burdens of college life.

The most amazing aspect of Frank DuBois is that for the past 13 years, he has been living with multiple sclerosis. And yet this debilitating disease has not stopped Frank from accomplishing so much. In December 2000, Frank received the DreamMaker Award from the Going the Distance for MS Research Foundation. He was diagnosed with MS in 1990 but has not wavered in his dedication to the people he serves.

Frank's life should be an inspiration to us all. Even living with MS, Frank refuses to give in. He has received six prestigious awards for his unwavering dedication to New Mexico since 1995.

I could not stand here and talk about Frank without also honoring his loving wife Sharon, who has been on my staff for many years in my Las Cruces office. Sharon has stood beside her husband through the toughest of times. She has devoted her love and time to help Frank realize his dreams and

those who know her personally are greatly appreciative.

Frank's retirement from public service will most definitely be felt by New Mexico, and he will be greatly missed. He has dedicated a great portion of his life to the advancement of the heritage of New Mexico, and even in his retirement, Frank has committed to help develop his Rodeo Scholarship and to focus on his own personal health.

Frank, although your retirement will be felt by many, I thank you for your past dedication and your promise for a continued commitment to the youth of NMSU.●

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–2818. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning CBO estimates compared to OMB estimates for P.L. 108–11, the 2003 Emergency Wartime Supplemental Appropriations Act; to the Committee on the Budget.

EC–2819. A communication from the Director, Financial Management and Assurance, General Accounting Office, transmitting, pursuant to law, a report on the financial statements of the Capitol Preservation Fund for the fiscal years ended September 30, 2002 and 2001; to the Committee on Rules and Administration.

EC–2820. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics April 2003 Department Store Price Indexes'' (Rev. Rul. 2003–68) received on June 9, 2003; to the Committee on Finance.

EC–2821. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Viruses, Serums, Toxins, and Analogous Products; Standard Requirements for Determination of Residual Free Formaldehyde Content of Biological Products'' (Doc. No. 01–091–2) received on June 16, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2822. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Exotic Newcastle Disease; Removal of Areas from Quarantine'' (Doc. No. 02–117–8) received on June 16, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2823. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Removal of Cold Treatment Requirement for Ya Pears Imported From Hebei Province in China'' (Doc. No. 02–084–2) received on June 16, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2824. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tuberculosis Testing in Imported Cattle'' (Doc. No. 00–102–2) received on June 16, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2825. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Azoxystrobin; Pesticide Tolerance'' (FRL7311–2) received on June 18, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2826. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Buprofezin; Pesticide Tolerance'' (FRL7310–7) received on June 18, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2827. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on June 9, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2828. A communication from the Director, Regulations Policy and Management, transmitting, pursuant to law, the report of a rule entitled ''Food Additive Permitted in Feed and Drinking Water for Animals Feed-Grade Biuret'' (Doc. No. 02F–0327) received on June 19, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2829. A communication from the Director for Standards and Guidance, Occupational Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Powered Industrial Trucks—Technical Amendment (Correction)'' received on June 16, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2830. A communication from the Regulations Coordinator, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Applications for FDA Approval to Market a New Drug: Patent Submission and Listing Requirements and Application of 30-Month Stays on Approval of Abbreviated New Drug Applications Certifying that a Patent Claiming a Drug is Invalid or Will Not Be Infringed'' (RIN0910–AC48) received on June 18, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–2831. A communication from the United States Railroad Retirement Board, transmitting, pursuant to law, the Twenty-Second Actuarial Valuation of the Assets and Liabilities Under the Railroad Retirement Acts as of December 31, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2832. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the International Energy Outlook for 2003; to the Committee on Energy and Natural Resources.

EC–2833. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Uranium Industry Annual Report for 2002; to the Committee on Energy and Natural Resources.

EC–2834. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report concerning the payment to the Czech Republic Government in the amount of $0.930 million to reimburse it for military support provided to U.S. military operations in connection with the global war on terrorism; to the Committee on Armed Services.

EC–2835. A communication from Under Secretary of Defense, Personnel and Readiness, transmitting, the approval of a retirement; to the Committee on Armed Services.

EC–2836. A communication from the Assistant Secretary of the Navy, Department of Defense, transmitting, pursuant to law, a report concerning the study of certain functions performed by military and civilian personnel in the Department of the Navy for possible performance by private contractors; to the Committee on Armed Services.

EC–2837. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report concerning chemical agent destruction operations at the Anniston Chemical Agent Disposal Facility in Anniston, Alabama; to the Committee on Armed Services.

EC–2838. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, the report of a vacancy and the designation of acting officer in the position of Secretary of the Army; to the Committee on Armed Services.

EC–2839. A communication from the Office of the Secretary of Defense, Administration and Management, transmitting, pursuant to law, a report concerning the certification of the total cost for the planning, design, construction, and installation of equipment for the renovation of Wedges 2 through 5 of the Pentagon; to the Committee on Armed Services.

EC–2840. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Transportation of Supplies by Sea—Commercial Items'' (DFARS Case 2002–D019) received on June 19, 2003; to the Committee on Armed Services.

EC–2841. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, the 2003 Annual Report and Performance Plan for the Chemical and Biological Defense Program

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. KERRY:

S. 1310. A bill to amend the Internal Revenue Code of 1986 to provide that the harbor maintenance tax is applied to certain ports that import cargo exceeding $100,000,000 in value per year; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 1311. A bill to establish the Hudson-Fulton-Champlain 400th Commemoration Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 1312. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a Federally-qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

By Mr. HOLLINGS:

S. 1313. A bill to establish the Congaree Swamp National Park in the State of South Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mrs. MURRAY, and Ms. CANTWELL):

S. 1314. A bill to expedite procedures for hazardous fuels reduction activities on National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, to improve the health of National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. CRAPO, and Mr. SMITH):

S. 1315. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested National Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 179. A resolution to authorize testimony and legal representation in State of New Hampshire v. Donald Johnson; considered and agreed to.

By Mr. DODD:

S. Res. 180. A resolution to set standards for the naming of any part of the Senate wing of the Capitol Building Complex; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death.

S. 50

At the request of Mr. JOHNSON, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 171

At the request of Mr. DAYTON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 171, a bill to amend title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 300

At the request of Mr. KERRY, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 518

At the request of Ms. COLLINS, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Connecticut (Mr. LIEBERMAN) 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. 557

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 640

At the request of Mr. LEAHY, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 648

At the request of Mr. REED, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 648, a bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy.

S. 752

At the request of Mr. BINGAMAN, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 752, a bill to amend the Internal Revenue Code of 1986 to treat distributions from publicly traded partnerships as qualifying income of regulated investment companies, and for other purposes.

S. 780

At the request of Mr. LOTT, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 820

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 820, a bill to amend the Federal Water Pollution Control Act to establish a perchlorate pollution prevention fund and to establish safety standards applicable to owners and operators of perchlorate storage facilities.

S. 853

At the request of Ms. SNOWE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 853, a bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the medicare program.

S. 857

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 857, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching Standards, and for other purposes.

S. 894

At the request of Mr. WARNER, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Oklahoma (Mr. INHOFE) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 950

At the request of Mr. ENZI, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 950, a bill to allow travel between the United States and Cuba.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor 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. 1037

At the request of Ms. SNOWE, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1037, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 1046

At the request of Mr. HOLLINGS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1090

At the request of Mr. VOINOVICH, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1090, a bill to amend title 23, United States Code, to increase the minimum allocation provided to States for use in carrying out certain highway programs.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1129

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1208

At the request of Ms. COLLINS, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1208, a bill to amend the Cooperative Forestry Assistance Act of 1978 to establish a program to provide assistance to States and nonprofit organizations to preserve suburban forest land and open space and contain suburban sprawl, and for other purposes.

S. 1222

At the request of Mr. NELSON of Nebraska, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1222, a bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services, in determining eligibility for payment under the prospective payment system for inpatient rehabilitation facilities, to apply criteria consistent with rehabilitation impairment categories established by the Secretary for purposes of such prospective payment system.

S. 1225

At the request of Mr. GREGG, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1225, a bill entitled the ''Greater Access to Affordable Pharmaceuticals Act''.

S. 1226

At the request of Mrs. CLINTON, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1226, a bill to coordinate efforts in collecting and analyzing data on the incidence and prevalence of developmental disabilities, and for other purposes.

S. 1248

At the request of Mr. GREGG, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1248, a bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

S. 1255

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1255, a bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1273

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1273, a bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes.

S. 1289

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1289, a bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone.

S. 1291

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 1291, a bill to authorize the President to impose emergency import restrictions on archaeological or ethnological materials of Iraq until normalization of relations between the United States and the Government of Iraq has been established.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. CON. RES. 25

At the request of Mr. VOINOVICH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 25, a concurrent resolution recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month'', and for other purposes.

AMENDMENT NO. 933

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of amendment No. 933 proposed to S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

AMENDMENT NO. 956

At the request of Mr. GRAHAM of Florida, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 956 proposed to S. 1, a bill to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 1312. A bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a Federally-qualified health center or a Native Hawaiian health care system; to the Committee on Finance.

Mr. INOUYE. Mr. President, today, Senator AKAKA and I are introducing legislation that would provide for 100 percent coverage under Medicaid for the payment of health services rendered to Native Hawaiians by either Federally qualified health centers or Native Hawaiian health care systems. This provision would treat our State's Native Hawaiians comparably with Alaskan Natives and American Indians under the current Medicaid law. We purposely focused upon Federally qualified health centers and Native Hawaiian health care systems, because they are highly cost effective ways of providing these extraordinarily necessary primary care and preventative services.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1312

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 ''Native Hawaiian Medicaid Coverage Act of 2003''.

SEC. 2. 100 PERCENT FMAP FOR MEDICAL ASSISTANCE PROVIDED TO A NATIVE HAWAIIAN THROUGH A FEDERALLY-QUALIFIED HEALTH CENTER OR A NATIVE HAWAIIAN HEALTH CARE SYSTEM UNDER THE MEDICAID PROGRAM.

(a) MEDICAID.—Section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended, in the third sentence, by inserting '', and with respect to medical assistance provided to a Native Hawaiian (as defined in section 12 of the Native Hawaiian Health Care Improvement Act) through a Federally-qualified health center or a Native Hawaiian health care system (as so defined) whether directly, by referral, or under contract or

other arrangement between a Federally-qualified health center or a Native Hawaiian health care system and another health care provider'' before the period.

(b) EFFECTIVE DATE.—The amendment made by this section applies to medical assistance provided on or after the date of enactment of this Act.

By Mr. HOLLINGS:

S. 1313. A bill to establish the Congaree Swamp National Park in the State of South Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HOLLINGS. Mr. President, today I am introducing legislation that is particularly important to me, in that it culminates nearly 30 years of efforts to preserve the wilderness of South Carolina for future generations of Americans. This legislation proposes to raise the designation of the Congaree Swamp National Monument to the Congaree National Park, and to increase its size by 20 percent.

I still remember when my friend, Harry Hampton, enlisted my help to protect the big trees that were being destroyed 500 acres a year in the central part of my State. In 1976, Congress set aside 15,000 acres to establish the Congaree Swamp National Monument. In the late 1980s, we expanded it by another 7,000 acres. More recently, we've invested in a visitor center and this investment has far exceeded this Senator's expectations.

The attendance has ballooned to 120,000 visitors every year, including some 12,000 students, who use the forest as their classroom to nature. It has awakened an interest in the environment for these children. They cruise the Congaree, learning how to identify trees, birds, animals, and everything like that. All kinds of groups take hikes, nature walks and canoe trips to see the almost 1,000 different types of trees, plants, animals, and birds in the forest.

This is home to some of the tallest and rarest trees in the Eastern United States—some are 400 years old. It is home to the largest example of old growth southern hardwood forest in North America. All eight species of woodpeckers can be found here, including the endangered red-cockaded variety.

Yet had Congress not acted back in 1976, none of this may be around today. We were able to save at least a few thousand acres of what once covered vast portions of the east coast, so future generations of Americans can enjoy it. There is a lesson here. The Government can do good for the environment. It is in the interest of our nation to protect our nation's treasures.

My legislation, the Congaree National Park Act of 2003 continues the progress we have seen the last 25 years. It would add another 4,576 acres of ecologically rich land; and it would redesignate the Monument into a fullfledged National Park, which would be the first in South Carolina. The Congaree Swamp is widely recognized as one of the most unique and rare ecological habitats in the country. This designation not only recognizes the significance of this area but the wonderful job the National Park Service is doing to make this a growing attraction for local, State, national, and international visitors.

The project has received support from a number of organizations, and I ask unanimous consent that these letters of endorsement be printed in the RECORD. I hope to work on a bipartisan basis with my colleagues to pass the legislation this session.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES,
Columbia, SC, June 23, 2003.

Hon. ERNEST F. HOLLINGS,
U.S. Senator, Russell Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: I want to take this opportunity to endorse the proposed legislation to establish the Congaree Swamp National Park in the State of South Carolina (Congaree National Park Act of 2003). We are delighted to see your continued commitment to the protection of important environmental properties in our State. The expansion of the Congaree National Monument to a ''National Park'' certainly continues the habitat protection vision that is embraced by the Board of the South Carolina Department of Natural Resources.

I have been in routine contact with your staff and many of our natural resource conservation partners as this important legislation was developed by your staff. We appreciate your staff's professional courtesy to us in seeking our agency's input. The expansion of this significant natural resource area certainly parallels the stated mission of our agency in proactively protecting the State's natural resources for the use and enjoyment by future generations of South Carolians.

Again, thank you for your commitment to our natural resources and to improving the quality of life of our citizens. You have been a strong supporter of our conservation initiatives and our citizens are certainly indebted to you for your leadership and vision.

Sincerely,

JOHN E. FRAMPTON,
Director.

THE TRUST FOR PUBLIC LAND,
Washington, DC, June 23, 2003.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: I am writing today on behalf of The Trust for Public Land in support of legislation to expand the boundaries of the Congaree Swamp National Monument and designate it as a National Park in the State of South Carolina.

As you know, the Congaree Swamp National Monument was authorized as a unit of the National Park Service in 1976. The park rests on a floodplain of the Congaree River and is recognized as an International Biosphere Reserve, National Natural Landmark, Wilderness Area, and ''Globally Important Bird Area,'' with over 90 tree species including old growth loblolly pines and bald cypress. The Congaree hosts the nation's largest tract of old-growth bottomland hardwood forest, and contains some of the tallest trees in the eastern U.S., with some pines reaching over 160 feet. The Congaree's outstanding natural resources are frequented by outdoor enthusiasts who enjoy canoeing, kayaking, picnicking, camping, and fishing.

In 1994, the expansion area was the subject of a biological and hydrological evaluation to determine its resource value for protection and addition to the Congaree Swamp National Monument. The report concluded that expanding the National Monument to include this area would conserve a unique hydrological system integrally connected to the hydrology of the Congaree River and that of lands currently within the Congaree Swamp National Monument. Once protected, these lands would from a conservation corridor connecting the Congaree with other protected state and Federal lands further downstream.

Additional protection of the Congaree Swamp National Monument would not only play a critical role in enhancing South Carolina's recreation needs, it would further enrich South Carolina's impressive historic and cultural resources as well as its significant wildlife and ecological resources.

The Trust for Public Land commends your leadership on this matter and looks forward to working with you on enacting such legislation.

Sincerely,

ALAN FRONT,
Senior Vice President.

COLUMBIA AUDUBON SOCIETY,
Columbia, SC, June 23, 2003.

Hon. ERNEST F. HOLLINGS,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS; I am writing to you on behalf of the 700+ members of Columbia Audubon Society. We want to express our full support for your legislation to change the Congaree Swamp National Monument to National Park and to expand the boundary.

No other area in the Southeast is of comparable geological and biological significance. The park has been recognized as a National Natural Landmark, an International Biosphere, Globally Important Bird Area, and a Wetlands of International Importance. Anything that can be done to raise awareness of this important resource and to protect it by boundary expansion is a positive step that we support.

Thank you once again for your efforts on behalf of our natural and national heritage.

Sincerely,

DANIEL L. TUFFORD,
President and Conservation Chair.

SIERRA CLUB,
SOUTH CAROLINA CHAPTER,
Columbia, SC, June 22, 2003.

Re Congaree Swamp National Monument.

Senator ERNEST HOLLINGS,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: The South Carolina Chapter of the Sierra Club supports your legislation to expand and reclassify the Congaree Swamp National Monument. We thank you for your preservation efforts regarding the Congaree Swamp and for your support of the environment generally.

The Congaree Swamp National Monument on the meandering Congaree River is a tranquil setting of world champion trees, primeval forest landscapes, and diverse plant and animal life. This 21,479-acre intact old-growth bottomland hardwood forest is a remnant of what much of the Southeast looked like 200-plus years ago. The opportunity to add 4,526-acres to this living ecological museum cannot be ignored.

We also believe that Congaree Swamp is more appropriately identified as a national ''park.'' This designation, within the Park Service, will accord the ''swamp'' its appropriate status and possible funding within the Department of Interior.

The South Carolina Chapter of the Sierra Club was formed 25 years ago as a result of citizen involvement to form the Congaree Swamp National Monument in 1976. Our Sierra Club chapter could receive no better gift on our 25th birthday than the expansion and redesignation of this sanctuary for plants, animals, researchers, and hikers.

On behalf of the 5,200 Sierra Club members in South Carolina, again, we thank you and support your efforts.

Sincerely,

DELL ISHAM,
SC Chapter Director.

SOUTH CAROLINA
WILDLIFE FEDERATION,
Columbia, SC, June 17, 2003.

Hon. Ernest F. Hollings,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR HOLLINGS: The South Carolina Wildlife Federation (SCWF) applauds you for your continued commitment to the environment and to the rare and precious habitats found both nationwide and in South Carolina. It is your continued dedication to these valuable habitats and our mission to support conservation efforts that prompts us to write to you. The purpose of this letter is to express our position on your ''Congaree National Park Act of 2003.''

The SCWF considers this bill, to change the designation of the Congaree National Monument to the Congaree National Park and to expand the park to include the 4,576 acres, a profitable proposal. As is evidenced in the text of the bill, there are numerous reasons to protect, preserve and expand this area. The rarity of this wilderness area boasts the last and largest example of virgin, old-growth southern hardwood forest in North America. The Congaree National Monument and adjacent private land provide valuable opportunities to experience and learn about our natural, biological, geological, and cultural history. This wilderness is home to over 900 species of plants and animals, including rare, threatened and endangered species. Since habitat size plays such an important role in maintaining healthy communities and diverse gene pools of plant and animal species, this expansion and designation as a National Park are wonderful ways to preserve such an ecologically rich area.

In addition, Mr. Harry Hampton, the founder of this Federation, was also responsible for the recognition of the Congaree Swamp as a National Monument. In keeping with the vision of our founder it is with great eagerness that we support your efforts to have this bill enacted. The South Carolina Wildlife Federation commends you for introducing the ''Congaree National Park Act of 2003.'' Please use this letter freely in the public record.

Sincerely,

ANGELA VINEY
Executive Director.

SOUTH CAROLINA COASTAL
CONSERVATION LEAGUE,
Columbia, SC, June 23, 2003.

Hon. Ernest F. Hollings,
U.S. Senate,
Washington, DC.

DEAR SENATOR HOLLINGS: I am writing to give the Coastal Conservation League's full support for the Congaree National Park Act of 2003. The Congaree Swamp National Monument is a tremendous asset for South Carolina and the nation, and has enjoyed ever-increasing numbers of supporters and visitors. It is definitely worthy of the level of protection that a National Park designation would provide.

This area has regional, national, and international significance. Regionally it stores waters that reduce downstream flooding, and improves water quality in the Congaree and Santee rivers. It is important on a national scale because it includes the largest intact tract of old growth area of virgin floodplain forest in the United States. And 20 years ago it earned global recognition as an International Biosphere Reserve. Because of its significance it has attracted visitors ranging from Richland County to around the world.

The expansion of the National Monument area by over 4,000 acres will greatly advance state conservation goals, as it will link two core areas identified by the South Carolina Landscape Mapping Project's Ecological Vision, namely the Congaree Swamp National Monument and the Upper Santee Swamp. In addition, the proposed expansion to include Fork Swamp within the proposed National Park boundaries accomplishes the objective of the Heritage Trust Board of the Department of Natural Resources. This body has recommended protection for Fork Swamp, where the Wateree and Congaree rivers from the headwaters of the Santee River.

The Congaree Swamp is indeed a national treasure that will be enjoyed by visitors from around the country for years to come. The Congaree National Park Act of 2003 is a fitting tribute to its importance. Thank you for all you continue to do to preserve South Carolina's unique natural treasures.

Sincerely,

DANA BEACH,
Executive Director.

THE RIVER ALLIANCE,
Columbia, SC, June 16, 2003.

Senator ERNEST F. HOLLINGS,
Russell Building, U.S. Senate, Washington, DC.

DEAR SENATOR HOLLINGS: Your guiding hand led the effort to protect the unique national treasure of the Congaree Swamp National Monument. We believe the addition of an additional 4,500 area and its redesignation as a National Park is a continuation of this stewardship. The River Alliance strongly supports the expansion of the Congaree Swamps' boundaries and its designation as the Congaree Swamp National Park.

As you may recall, the River Alliance is a public benefit organization tasked with connecting citizens to the region's rivers. The Congaree Swamp is the crown jewel of our region's 90 miles of river system. The Alliance sees this physical expansion as a high value environmental and recreational addition. It allows protection of the Running Lake Creek, Bates Old River and Fort Swamp areas. The Wateree River is the logical southern boundary for the expansion. It also allows inclusion of the Congaree's River's edge between the existing federal boundary and the confluence with the Wateree. This brings the primary river access at South Carolina Highway 601 inside the park boundary. The expansion allows protection of additional cultural and environmental resources. It also provides a solid boundary for park management.

In 1997, the River Alliance initiated a major program to assist the Congaree Swamp in reaching its potential for visitation. With your help, physical outcomes were an improved access road, parking, and the Harry Hampton Visitors Center. Visitation has increased dramatically, but our analysis revealed an issue with its current designation as a ''Monument.'' An inaccurate, but very real, public perception is ''A Monument is less worthy of visitation than a National Park.'' The Congaree Swamp deserves the ''National Park'' designation, not only for its inherent national and intentional value, but to fully reach its potential to attract visitors. Congaree Swamp visitors leave with an embedded imprint of natural beauty. We wish that every citizen can have this experience. Visitors become advocates for the Swamp and for the National Park Service.

From the Alliance perspective, public ownership of the river's edge of the Congaree Swamp is a valuable commodity, the more the better. It allows public access by boat, canoe or kayak to the Swamp's bluffs, banks and creeks from the waters of the Congaree River. This offers visitors an unparalleled view of the ecosystem and access to the true wilderness. The record trees accessible from the water, are an awesome demonstration of the value of federal park protection. The expansion will extend the edge to the Wateree River. It will also allow the current Highway 601 access to become a true entry point to the Swamp with an opportunity for river-focused education and interpretation. As with the Harry Hampton Visitors Center project, the River Alliance is committed to assist in the creation of a visitor experience worthy of the environmental resource. The increased Congaree frontage sets the stage.

We know your action is forthcoming and we strongly support the expansion and redesignation. We will be happy to answer any questions, provide additional information, or testify to Congress as you desire. If you have any questions, feel free to contact me at (803) 765–2200.

Sincerely,

MICHAEL T. DAWSON,
Director.

FRIENDS OF CONGAREE SWAMP,
Columbia, SC, June 23, 2003.

Hon. ERNEST HOLLINGS,
Russell Senate Office Building, Washington, DC.

Re: Congaree Swamp—Boundary Expansion and National Park Designation

DEAR SENATOR HOLLINGS: For more than 25 years, you have provided outstanding leadership for Congaree Swamp National Monument. You were instrumental in establishing the monument in 1976 and expanding the monument in 1988. You have obtained funding for Congaree land acquisition, the entrance road, the Harry Hampton Visitor Center, and, recently, the maintenance facility.

Congaree Swamp's significance is affirmed by many studies and by its designations as a National Natural Landmark, a National Monument, and an International Biosphere Reserve. A nomination is prepared to recognize Congaree Swamp as Wetlands of International Importance.

The Friends of Congaree Swamp are delighted by your introduction of legislation to expand Congaree Swamp National Monument and to change its designation from National Monument to National Park.

Congaree boundary expansion is a significant step toward implementing several visions:

It implements part of the South Carolina Conservation Vision Map by linking two major core areas: Congaree Swamp National Monument and the Upper Santee Swamp Natural Area;

It implements part of the Fork Swamp Large Area Project, a landscape-scale conservation project approved more than two years ago by the SC Heritage Trust Advisory Board of the SC Dept. of Natural Resources; and

It supports legislation you introduced in 2002, and again in 2003, regarding a Southern Campaign of the Revolution Heritage Area in South Carolina.

''Timing is everything.'' This boundary expansion was proposed and studied extensively in 1994, but one of the two key landowners was hesitant at that time to include the tract in legislation. Now, in 2003, both key landowners (Riverstone Properties and the Beidler family) are willing to sell their tracts for addition to Congaree Swamp National Monument.

However, both key landowners will sell these tracts to other buyers if the Congaree expansion languishes. Both key landowners recognize the potential to subdivide and sell their tracts as smaller parcels. On such parcel has already been sold. This situation underscores the urgency to authorize Congaree's expanded boundary and appropriate funding to purchase both key tracts before they are subdivided and sold as multiple parcels, especially if the new owners of the multiple parcels are unwilling to include their land in the Congaree boundary.

We support Congaree's designation as a National Park. Congaree Swamp National Monument has received visitors from more than 90 countries. Visitation—from throughout the United States as well as internationally—will surely increase if Congaree's significance is further recognized by National Park status.

Currently, Congaree's old-growth forest is the principal theme interpreted by the National Park Service. We understand Congaree's cultural/historical resources would be interpreted as the second theme if Congaree becomes a National Park. Friends of Congaree Swamp can provide historical information for lands within this Congaree boundary expansion.

We recall your tremendous efforts in 1988, when you secured FY 1989 funding for Congaree land acquisition while simultaneously authorizing Congaree's 7,000-acre expansion. How wonderful if your Congaree expansion/park legislation can be authorized in 2003 and funding obtained promptly thereafter to purchase these Congaree tracts!

On behalf of our members and our Board of Directors, we are grateful for your continued leadership. Please do not hesitate to contact us for additional information and assistance.

Sincerely,

LABRUCE ALEXANDER,
President, Friends of Congaree Swamp.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mrs. MURRAY, and Ms. CANTWELL):

S. 1314. A bill to expedite procedures for hazardous fuels reduction activities on National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, to improve the health of National Forest System lands established from the public domain and other public lands administered by the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing comprehensive legislation to expedite forest thinning and improve forest health on our national forests and public lands. I am pleased that Senator DASCHLE is a cosponsor of this bill.

Everyone in the Senate wants to do what we can to reduce the threat of catastrophic wildfire. We all agree on the need to accelerate fuels reduction activities because the risk of severe fire is so high. Ongoing drought, past fire suppression policies, and overly-excessive harvesting of timber have all contributed to the problem. All of us also agree that it is much better to devote limited resources to proactive efforts to reduce fire risk rather than paying to fight fires once they occur.

I have tried for years to improve the Federal agencies' forest thinning program in a variety of ways. I am also a vocal proponent for spending Federal dollars conducting proactive forest restoration. Although some may contend that restoration costs too much money, over the long-term, it is much less expensive than fighting fires.

Every year, the Forest Service borrows funds from other accounts to pay for firefighting. It is clear that this practice substantially contributes to project delays and cancellations. For example, in 2002 alone, the Forest Service states that:

> some critical projects in New Mexico were postponed for up to one year as a result of fire borrowing. These include wildland-urban interface fuels projects on the Carson, Gila, Lincoln, and Santa Fe National Forests. A contract for construction of a fuelbreak around a community at risk on the Cibola National Forest was postponed for six months.

The legislation I am introducing today eliminates the current fire borrowing practice by authorizing the Forest Service, during years in which the agencies' firefighting costs exceed its budget, to borrow funds directly from the Treasury. I urge my colleagues to reject any bill purporting to decrease on the ground delays if it does not address this problem.

A 2002 report by the National Academy of Public Administration, and a letter to Congress from the Society of American Foresters dated November 2002, confirms that the main obstacle constraining us from increasing our efforts to reduce fire risk is a lack of adequate funding. Clearly, the Forest Service's fire borrowing practice contributes to this lack of funding. Ever since Congress first funded the National Fire Plan more than two years ago, I have continually emphasized the need to sustain a commitment to the FY 2001 funding levels over a long enough period of time to make a difference—at least 15 years.

Important programs that are part of the National Fire Plan, including economic action programs, community and private land fire assistance, and burned area restoration and rehabilitation have been drastically cut—and some have been zeroed out—by the Administration over the last three budget cycles. For some accounts included under the National Fire Plan, but not all, Congress has made up the difference. However, it would certainly be much easier to fully fund the National Fire Plan with the Administration's support.

Beyond funding constraints, some allege that administrative appeals and lawsuits limit our ability to reduce fire risk across the country. As set forth in my legislation, I am willing to provide new legal authorities and exemptions from administrative appeals to address this concern.

Let me briefly describe the expedited procedures provisions of our bill. We propose to exempt from National Environmental Policy Act analysis all forest thinning projects located near communities or in municipal watersheds that remove up to 250,000 board feet of timber or one million board feet of salvage timber. We prohibit administrative appeals on these projects, thereby saving 135 days in the process. In addition, we eliminate judicial review granted under NEPA for thinning projects within one-half mile of at risk communities or within certain municipal watersheds. The combination of these provisions would save between one and one-half to three and one-half years of process.

Targeting the expedited procedures to areas near communities and in municipal watersheds is consistent with a 2002 National Academy of Public Administration report recommending that the Federal Government conduct fuels reduction treatments near communities and municipal watersheds before treating more distant areas. We also require that seventy percent of forest thinning funds be spent within these critical areas.

We agree with, and included, some provisions similar to ones found in H.R. 1904. For example, our bill covers the same amount of Federal land, namely, up to 20 million acres. H.R. 1904 requires the Secretaries to select projects through a collaborative process and give priority to protecting communities and municipal watersheds. Moreover, H.R. 1904 requires that projects be consistent with applicable forest and resource management plans. I agree with all of these provisions.

Both bills establish systematic programs, in cooperation with colleges and universities, to gather information on insect infestations that can be applied to forest management treatments. However, our bill provides actual funds, $25 million annually, to implement the program whereas H.R. 1904 does not.

This bill differs from H.R. 1904 in some other important aspects. Our bill comprehensively addresses the issue of on the ground delay by doing away with the Forest Service's fire borrowing practice and exempting the Forest Service from the Competitive Sourcing Initiative.

Our legislation provides $100 million annually to reduce fire risk and restore burned areas on non-Federal lands. Forest Service researchers state that seventy-seven percent of all high risk areas are on non-Federal lands. In addition, the National Academy of Public Administration's 2002 report notes that forty-seven percent of acres burned each year are non-Federal lands and stated that decreasing fuels on all owners' lands is needed to address the large scope of the fire hazard problem. Moreover, given that the Administration has zeroed out funding for burned area restoration and rehabilitation, the secure funding provided by our bill is desperately needed to protect communities from landslides and other adverse effects of catastrophic wildfire.

The bill I am introducing today recognizes the role that forest dependent

communities play in restoring our lands by requiring that at least thirty percent of hazardous fuels reduction funds be spent on projects that benefit small businesses that use hazardous fuels and are located in small, economically disadvantaged communities. In order to provide robust monitoring of new authorities, we require that an independent commission report to Congress on the results of the program and that the agencies establish a multiparty monitoring program. H.R. 1904 does not contain similar provisions.

Most fuel reduction projects will take several years to implement. It is critical that the agencies have reliable funding to complete the projects they start. If funding is obtained to thin trees the first year, but not to complete the slash disposal and reintroduce fire through prescribed burning the following years, short-term fire risk will be increased. Moreover, slash that is left on the ground increases the likelihood of beetle infestations. The bill I am introducing today ensures that agencies address long-term fuels management whereas H.R. 1904 does not contain any similar provision.

At this point in time, I do not believe we need to expedite judicial review beyond what we offer in this bill. The judicial review limitations in H.R. 1904 are excessive. In May 2003, GAO completed an analysis of Forest Service decisions involving fuel reduction activities. In the first two years of activity under the National Fire Plan, GAO found that only three percent of all of the decisions were litigated covering 100,000 acres. Decisions affecting the remaining 4.6 million acres treated in those two years proceeded without any litigation.

H.R. 1904 provides new legal authorities and judicial review limitations without regard to many independent analyses that have discovered numerous flaws with the agencies' existing implementation of the National Fire Plan. In November 2001, the Inspector General for the Department of Agriculture found that the Forest Service was inappropriately spending its burned area restoration funds to prepare commercial timber sales. Similarly, it was recently discovered that the Forest Service ''misplaced'' $215 million intended for wildland fire management due to an accounting error.

Finally, another GAO report concluded that, because the Forest Service relies on the timber program for funding many of its other activities, including reducing fuels, it has often used the timber program to address the wildfire problem. GAO states, ''The difficulty with such an approach, however, is that the lands with commercially valuable timber are often not those with the greatest wildfire hazards. Additionally, there are problems with the incentives in the fuel reduction program. Currently, managers are rewarded for the number of acres on which they reduce fuels, not for reducing fuels on the lands with the highest fire hazards. Because reducing fuels in areas with greater hazards is often more expensive—meaning that fewer acres can be completed with the same funding level—managers have an incentive not to undertake efforts on such lands.'' GAO/RCED–99–65.

The parameters set forth in our bill will ensure that the agencies conduct forest thinning in a way that truly reduces the threat of fire and improves forest health. For example, we require the agencies to focus on thinning projects that remove small diameter trees. Too often, the Forest Service has cut large trees because of their commercial value instead of removing small-diameter trees that tend to spread fire. A group of respected forest fire scientists recently wrote President Bush a letter stating that, ''thinning of overstory trees, like building new roads, can often exacerbate the situation and damage forest health.''

Our bill prohibits new road construction in roadless areas whereas H.R. 1904 contains no similar provision. The National Forests already contain 380,000 miles of road, as a comparison, the National Highway System contains 160,000 miles of roads, and the deferred maintenance needs on these existing roads totals more than $1 billion. Forest Service analysis reveals that roads increase the probability of accidental and intentional human-caused ignitions.

Returning receipts to the Treasury is consistent with a provision in Senator WYDEN and Senator CRAIG's county payments legislation enacted two years ago and avoids existing perverse incentives. Numerous GAO reports reveal that existing agency trust funds provide incentives for the agency to cut large trees because it gets to keep the revenue. Cutting large trees will not reduce fire risk, therefore, we should direct receipts back to the Treasury. Jeremy Fried, a Forest Service Research specialist at the Pacific Northwest Research Station, states, ''If you take just big trees, you don't reduce fire danger.''

The provision in our bill stating that seventy percent of hazardous fuels reduction funds be spent within one-half mile of at risk communities or within municipal watersheds is necessary because GAO recently found that more than two-thirds of the Forest Service's decisions involving fuels reduction activities were targeted exclusively at lands outside of the wildland/urban interface. H.R. 1904 contains no similar provision.

In conclusion, our bill represents a comprehensive and balanced approach to expedite forest thinning and improve forest health. 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:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Collaborative Forest Health Act''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term ''at-risk community'' means—

(A) an urban wildland ''interface'' or ''intermix'' community as those terms were defined by the Secretaries on January 4, 2001 (66 Federal Register 753), or

(B) consisting of a collection of homes or other structures with basic infrastructure and services, such as utilities, collectively maintained transportation routes, and emergency services;

(i) on which conditions are conducive to large-scale fire disturbance events; and

(ii) for which a significant risk exists of a resulting spread of the fire disturbance event, after ignition, which would threaten human life and property.

(2) The term ''community protection zone'' means an at-risk community and an area within one-half mile of an at-risk community.

(3) The term ''Secretaries'' means the Secretary of Agriculture with respect to National Forest System lands and the Secretary of the Interior with respect to public lands administered by the Bureau of Land Management.

(4) The term ''1890 Institution'' means a college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

(5) The term ''Federal lands'' means public lands as defined in section 103(e) of the Federal Land Policy and Management Act (43 U.S.C. 1702(e)) and the National Forest System as defined in section 11 (a) of the Forest and Rangeland Renewable Resources Planning Act (16 U.S.C. 1609(a)).

SEC. 3. EXPEDITED PLANNING AND IMPLEMENTATION PROCESS.

(a) CATEGORICAL EXCLUSION.—Subject to subsection (h), the Secretaries may find that a proposed hazardous fuels reduction project, including prescribed fire, that removes no more than 250,000 board feet of merchantable wood products or removes as salvage 1,000,000 board feet or less of merchantable wood products and assures regeneration of harvested or salvaged areas will not individually or cumulatively have a significant effect on the human environment and, therefore, neither an environmental assessment nor an environmental impact statement is required

(b) PUBLIC MEETING.—Prior to implementing a project pursuant to subsection (a), the Secretaries shall conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal lands in which the project will be conducted. The Secretaries shall provide advance notice of the date and time of the meeting.

(c) COLLABORATION.—

(1) The Secretaries shall identify projects implemented pursuant to this section through a collaborative framework as described in the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the Conference Report to the Department of the Interior and Related Agencies Appropriations Act, FY 2001 (H. Rept. 106–646) to reduce hazardous fuels. Any project carried out pursuant to this section shall be consistent with the applicable forest plan, resource management plan, or other applicable agency plans.

(2) The Secretaries shall ensure that local level collaboration includes Tribal representatives, local representatives from Federal and State agencies, local governments, landowners, other stakeholders, and community-based groups.

(3) The Secretaries shall establish incentives or performance measures to ensure that Federal employees are committed to collaboration.

(d) ACREAGE LIMITATION.—In implementing this section, the Secretaries shall implement projects on an aggregate area of not more than 20 million acres of Federal lands. This amount is in addition to the existing hazardous fuels reduction program that implements projects on approximately 2.5 million acres each year.

(e) ADMINISTRATIVE APPEALS.—

Projects implemented pursuant to this section shall not be subject to the appeal requirements of section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (16 U.S.C. 1612 note) or review by the Department of the Interior Board of Land Appeals. Nothing in this section affects projects for which scoping has begun prior to enactment of this Act.

(f) CONCLUSIVE PRESUMPTION.—Within—

(1) the community protection zone; or

(2) municipal watersheds in which National Environmental Policy Act documentation and analysis has been completed and no new road construction is allowed, no timber sales are allowed, and no log skidding machines are allowed,

unless there are extraordinary circumstances, the decision of either Secretary that a proposed hazardous fuels reduction project authorized by subsection (a) is categorically excluded is conclusive as a matter of law and shall not be subject to judicial review. This conclusive determination shall apply in any judicial proceeding brought to enforce the National Environmental Policy Act pursuant to this section.

(g) EXCLUDED FEDERAL LANDS.—This section does not apply to any Federal lands—

(1) included in a wilderness study area or a component of the National Wilderness Preservation System; or

(2) where logging is prohibited or restricted by an Act of Congress, presidential proclamation, or agency determination.

(h) EXTRAORDINARY CIRCUMSTANCES.—For all projects proposed pursuant to this section, if there are extraordinary circumstances, the Secretaries shall follow agency procedures related to categorical exclusions and extraordinary circumstances consistent with Council on Environmental Quality regulations.

(i) REDUCE FIRE RISK AND IMPROVE FOREST HEALTH.—

(1) In order to ensure that the agencies are implementing projects pursuant to this section that reduce the risk of unnaturally intense wildfires and improve forest health, the Secretaries—

(A) shall not construct or reconstruct new temporary or permanent roads in inventoried roadless areas;

(B) shall maintain the integrity of mature and old growth stands appropriate for each ecosystem type and shall focus on thinning from below for all forest thinning projects;

(C) shall use integrated pest management techniques to forestall significant fuel loading in areas infested by native insects;

(D) shall require a slash treatment plan when thinning to reduce hazardous fuels in areas with insect mortality and limit timber salvage activity to areas with fifty percent or more mortality; and

(E) shall deposit in the Treasury of the United States all revenues and receipts generated from projects implemented pursuant to this Act.

(2) In addition to the requirements set forth in paragraph (1), the Secretaries shall ensure that projects implemented in municipal watersheds protect or enhance water quality or water quantity.

(3) The Secretaries shall not use goods-for-service contracting to implement projects pursuant to this section.

(j) LONG-TERM FUEL MANAGEMENT.—In implementing hazardous fuels reduction projects pursuant to this section, the Secretaries shall ensure that—

(1) funding to assure completion of all phases of the project be committed by the management unit before the project begins;

(2) a follow-up treatment plan describing the long-term maintenance activities to keep the treated areas within the historical range of variability, and the project costs, shall accompany all proposed projects; and

(3) a system to track the budgeting and implementation of follow-up treatments shall be used to account for the long-term maintenance of areas managed to reduce hazardous fuels.

(k) HAZARDOUS FUELS REDUCTION FUNDING FOCUS.—In order to focus hazardous fuels reduction activities on the highest priority areas where critical issues of human safety and property loss are the most serious and within municipal watersheds, the Secretaries shall expend at least seventy percent of the hazardous fuels operations funds provided annually only on projects within the community protection zone or within municipal watersheds.

(l) COMMUNITIES.—

(1) The Secretaries shall expend at least thirty percent of the hazardous fuels operations funds provided annually on projects that benefit small businesses that use small diameter material and woody debris removed in hazardous fuels reduction treatments and are located in small, economically disadvantaged communities.

(2) To conduct a project under this section, the Secretaries shall use local preference contracting and best value contracting. Best value contracting criteria includes—

(A) the ability of the contractor to meet the ecological goals of the projects;

(B) the use of equipment that will minimize or eliminate impacts on soils; and

(C) benefits to local communities such as ensuring that the byproducts are processed locally.

(m) MONITORING.—(1) The Secretaries shall jointly establish a commission to complete an assessment of the positive or negative impacts and effectiveness of projects implemented under this section. The commission shall be composed of 12 to 15 members with equal representation from conservation interests, local communities, and commodity interests. The Commission shall submit a report to Congress within 36 months after the date of enactment of this Act. The report must include identification of the total dollar value of contracts awarded to natural resource related small or micro enterprises, Youth Conservation Corps crews or related partnerships, entities that hired and trained local people to complete the contract or agreement, or local entities that meet the criteria to qualify for the Historically Underutilized Business Zone Program pursuant to section 32 of the Small Business Act (15 U.S.C. 657a).

(2) (A) The Secretaries shall establish a multiparty monitoring, evaluation, and accountability process in order to assess a representative sampling of the projects implemented pursuant to this section.

(B) The Secretaries shall ensure that monitoring data is collected and compiled in a way that the general public can easily access. The Secretaries may collect the data using cooperative agreements, grants, or contracts with small or micro-enterprises, Youth Conservation Corps work crews or related partnerships with State, local, and other non Federal conservation corps.

(3) Funds to implement this section shall be derived from hazardous fuels operations funds.

(n) SUNSET.—

The provisions of this section shall expire five years after the date of enactment of this Act, except that a project for which a decision notice, or memorandum in the case of a categorical exclusion, has been issued before the end of such period may continue to be implemented using the provisions of this Act.

SEC. 4. INSECT INFESTATIONS.

(a) During fiscal years 2004 through 2008, the Secretaries jointly shall make available from funds otherwise available in the Treasury, without further appropriation, $25,000,000 each fiscal year to conduct a systematic information gathering program on certain insect types that have caused large scale damage to forest ecosystems in order to complete research that can be applied to forest management treatments and product utilization.

(b) The Secretaries shall establish and carry out the program in cooperation with scientists from universities and forestry schools, State agencies, and private and industrial land owners. The Secretaries shall designate universities and forestry schools, including Land Grant Colleges and Universities and 1890 institutions, to carry out the program.

(c) The Secretaries shall ensure that the program includes research on:

(1) determining how to best use mechanical thinning and prescribed fire to modify fire behavior and reduce fire risk, and to improve the scientific basis for design, implementation and evaluation of hazardous fuels reduction treatments;

(2) gathering systematic information on insect types, including Emerald Ash Borers, Gypsy Moth, Red Oak Borers, Asian Longhomed Beetles, and Bark Beetles, that have caused large-scale damage to forest ecosystems, to establish early detection programs for insect and disease infestation in order to prevent massive breakouts, to determine the correlation between insect mortality and fire risk in specific forest types, and to test silvicultural systems that use integrated pest management; and

(3) developing new technologies and markets for value-added products that use the byproducts of insect infestation or hazardous fuels reduction treatments.

SEC. 5. FIREFIGHTER SAFETY AND TRAINING.

The Secretaries shall track funds expended for firefighter safety and training and include a line items for such expenditures in future budget requests.

SEC. 6. BORROWING AUTHORITY FOR FIRE SUPPRESSION.

(a) The Secretary of Agriculture may request up to $250 million in a fiscal year from the Secretary of the Treasury to cover fire suppression costs that exceed the amount of funding available to the Forest Service for fire suppression in a fiscal year.

(b) Upon such request, the Secretary of the Treasury shall make such sums available to the Secretary of Agriculture, without further appropriation.

(c) Upon amounts being appropriated by Congress to reimburse funds transferred to the Secretary of Agriculture pursuant to this section, such amounts shall be deposited in the Treasury.

SEC. 7. PROHIBITION ON THE COMPETITIVE SOURCING INITIATIVE.

The Competitive Sourcing Initiative and the Office of Management and Budget Circular No. A–76, dated May 29, 2003, shall not apply to the Forest Service.

SEC. 8. WILDFIRE RISK REDUCTION AND BURNED AREA RESTORATION.

(a) IN GENERAL.—During fiscal years 2004 through 2008, the Secretaries jointly shall

make available from funds otherwise available in the Treasury, without further appropriation, $100,000,000 each fiscal year to reduce the risk of wildfire to structures and restore burned areas on tribal lands, nonindustrial private lands, and State lands using the authorities available pursuant to this section, the National Fire Plan and the Emergency Watershed Protection program.

(b) COST SHARE GRANTS.—In implementing this section, the Secretaries may make cost-share grants to Indian tribes, local fire districts, municipalities, homeowner associations, and counties, to remove, transport, and dispose of hazardous fuels around homes and property to—

(1) prevent structural damage as a result of wildfire, or

(2) to restore or rehabilitate burned areas on non-Federal lands.

(c) NON-FEDERAL CONTRIBUTION.—The non-Federal contribution may be in the form of cash or in-kind contribution.

(d) PRIORITY.—Priority for such funds shall be given to areas where the applicable local government has enacted ordinances for wildland areas requiring or promoting brush clearance around homes and requiring fire-retardant building materials for new construction.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated in one fiscal year and unobligated before the end of that fiscal year shall remain available for use in subsequent fiscal years.

Mr. DASCHLE. Mr. President, today I join Senators BINGAMAN, MURRAY, CANTWELL and others to introduce the Collaborative Forest Health Act to expedite forest thinning and improve forest health on our national forests and public lands. I thank Senator BINGAMAN for his leadership on this important issue.

Everyone in the Senate wants to do what we can to reduce the threat of catastrophic wildfire. There is agreement on the need to accelerate fuel reduction activities because of the risk of severe fire is so high. Ongoing drought, past fire suppression policies, and past forestry practices have all contributed to the problem. These problems have made fire management much more expensive for American taxpayers. It is important to devote limited resources to proactive efforts to reduce fire risk rather than paying to fight fires once they occur.

The risk of damage to human life and property from severe wildfires has increased in areas where rapidly expanding populations are intermingled with forested wildlands, and a primary purpose of the National Fire Plan is to reduce the risks of such fires. Last week, Governors Judy Martz of Montana, Bill Richardson of New Mexico, Janet Napolitano of Arizona, and Dirk Kempthorne of Idaho issued a letter to the Agriculture Committee and the Energy and Natural Resources Committee endorsing this approach stating that ''priority in project selection should be given to projects that reduce fire risk in communities at risk and the watersheds that supply them.''

This comprehensive legislation will assist communities from the threat of wildfire by expediting fuel reduction in high risk areas and target resources near communities and municipal watersheds. We propose to exempt from environmental review and analysis all forest thinning projects located within one-half mile of at risk communities or within certain municipal watershed. While these targeted exemptions from environmental review are warranted, the Senate should proceed with caution in considering any comprehensive changes to judicial review. On May 14, 2003, the General Accounting Office, GAO, issued a report on the Forest Service's fuel reduction activities. For fiscal year 2001 and fiscal year 2002, the GAO found that hazardous fuel reduction activities were conducted on 4.7 million acres. Only 3 percent of all the fuel reduction projects, covering only 100,000 acres, faced any legal challenge during this period.

In 2002, the National Academy of Public Administration issued a report recommending the Federal Government conduct fuels reduction treatments near communities and municipal watersheds before treating more distant areas. We also require that 70 percent of forest thinning funds be spent within these critical areas. Our bill authorizes projects on up to 20 million acres over 5 years.

The bill also recognizes the role that forest-dependent communities play in restoring our lands by requiring that at least 30 percent of the hazardous fuels reduction funds be spent on projects that benefit small businesses that use hazardous fuels and are located in small, economically disadvantaged communities.

It is widely known that approximately 80 percent of the land surrounding homes and communities is non-Federal land. Our legislation provides $100 million annually to States, tribal and private lands to reduce wildfire risk and restore burned areas.

In addition, our bill establishes a $25 million research program, in cooperation with colleges and universities, to gather information on insect infestations that can be applied to forest management treatments.

Our bill promotes wildfire management activities that maintain the integrity of our national forests and public lands. The bill requires protection of old and large trees, prevents new road construction in roadless areas, and protects municipal watersheds.

In conclusion, our bill represents a comprehensive and balanced approach to expedite forest thinning and improve forest health. I urge my colleagues to support this important legislation.

By Mr. CRAIG (for himself, Mr. CRAPO, and Mr. SMITH):

S. 1315. A bill to amend the Federal Land Policy and Management Act of 1976 to provide owners of non-Federal lands with a reliable method of receiving compensation for damages resulting from the spread of wildfire from nearby forested national Forest System lands or Bureau of Land Management lands, when those forested Federal lands are not maintained in the forest health status known as condition class 1; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I rise today to introduce the Enhanced Safety from Wildfire Act of 2003. I am joined by my colleagues Mr. CRAPO and Mr. SMITH.

This morning, I awoke to the news that the Aspen fire near Tucson, AZ, made a significant run yesterday and damaged or destroyed an estimated 200 structures. The report also said firefighters could do nothing to stop the wall of fire from ripping through the middle of town. Sadly, this report is one of several such stories today and it is far from being the last.

It is only the middle of June and already the wildfire season is in full swing throughout the West. The loss of property as a result of wildfires on Federal land is unacceptable. I believe that our homes and the safety of our communities should never be put in harms way because of the mismanagement of our Federal land.

In short, the legislation we are introducing would amend the Federal Land Policy and Management Act of 1976 to make it possible for non-Federal land owners to receive compensation for a loss of property as a result of wildfire spreading from Federal land that has not been managed as Condition Class 1.

As we all know, in recent years, there has been a significant amount of injury and loss of property resulting from the spread of wildfire from Federal forested lands to non-Federal lands. Recent wildfires on Federal forested lands have shown that lands managed under approved forest health management practices are less susceptible to wildfire, or are subjected to less severe wildfire, than similarly forested lands that are not actively managed.

There is a continuing and growing threat to the safety of communities, individuals, homes and other property, and timber on non-Federal lands that adjoin Federal forested lands because of the unnatural accumulation of forest fuels on these Federal lands and the lack of active Federal management of these lands.

The use of approved forest health management practices to create forest fire ''buffer zones'' between forested Federal lands and adjacent non-Federal lands would reduce the occurrence of wildfires on forested Federal lands or, at least, limit their spread to non-Federal lands and the severity of the resulting damage.

This legislation requires the agencies to manage a ''buffer zone'' on Federal land, greater than 6,400 acres, that is adjacent to non-Federal land. When forested Federal lands adjacent to non-Federal lands are not adequately managed with a ''buffer zone'' and wildfire occurs, the legislation states the owners of the non-Federal lands are eligible for compensation for damages resulting from the spread of wildfire to

their lands. The legislation sets minimum criteria for non-Federal land to be eligible for compensation.

Our Federal land management agencies need to take responsibility for the fatal impacts that occur on non-Federal land as a result of a lack of management on Federal land. As a society, we have come to expect that our neighbors take responsibility for their actions and I feel the Federal land management agencies should not escape this responsibility either.

In the next few weeks, the weather will continue to heat up, the drought ridden West will become drier, wildfire will continue to plague throughout, and the number of reports regarding the loss of property will continue to escalate. At the same time, the forest health debate will also heat up as the Senate considers the President's Healthy Forest Initiative.

I know this legislation may not be the answer to solving our Federal land management problems and I am willing to discuss other options, but I know that until we address the heart of this issue, homes, private land, and communities will continue to be at risk because of poor Federal land management. Being a good neighbor means being responsible for your actions.

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. 1315

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act maybe cited as the ''Enhanced Safety from Wildfire Act of 2003''.

SEC. 2. UNITED STATES LIABILITY FOR DAMAGES RESULTING FROM THE SPREAD OF WILDFIRE FROM FORESTED PUBLIC LANDS.

(a) IMPOSITION OF LIABILITY FOR SPREAD OF WILDFIRE.—Title III of the Federal Land Policy and Management Act of 1976 is amended by inserting after section 318 (43 U.S.C. 1748) the following new section:

''Sec. 319. Liability for Damages Resulting From Spread of Wildfire From Public Lands or National Forest System Lands.

''(a) LIABILITY AS RULE OF LAW.—Except as provided in subsections (b), (c), and (d), and subject to the delayed effective date specified in subsection (h), any injury to or loss of property that occurs on non-Federal lands as a direct result of a fire that spread from forested Federal lands onto the non-Federal lands, either directly or by first spreading to other non-Federal lands, shall be deemed to be an injury or loss of property caused by the negligent or wrongful act or omission of an employee of the United States while acting within the scope of the employee's office or employment for purposes of section 1346 and chapter 171 of title 28, United States Code (commonly known as the 'Federal Tort Claims Act').

''(b) ADDITIONAL REQUIREMENT FOR CERTAIN NON-FEDERAL LANDS.—The owner or leasee of non Federal lands damaged by the spread of wildfire from forested Federal lands may not utilize the rule of law specified in subsection (a) when the non-Federal lands exceed 6400 acres and are used for the commercial production of timber, unless the owner or leasee proves that the damaged non-Federal lands were being managed to achieve or maintain the forest health status known as condition class 1 immediately before the fire. In the event of a dispute between the owner or leasee and the Secretary concerned regarding the status of the non-Federal lands before the fire, the determination of the State Forester of the State in which the lands are located shall control and any expenses associated with State Foresters determination shall be equally divided between the disputing parties.

''(c) EXCLUSION OF CONDITION CLASS 1 LANDS.—The rule of law specified in subsection (a) shall not apply if the forested Federal lands within the buffer zone adjacent to the Federal land boundary from which the fire spread to non-Federal lands were managed as condition class 1 immediately before the fire.

''(d) EXCLUSION OF OTHER FEDERAL LANDS.—The rule of law specified in subsection (a) shall not apply to the following Federal lands, even though wildfire may originate on such lands and spread to adjacent non-Federal lands:

''(1) A component of the National Wilderness Preservation System.

''(2) Federal lands where, by Act of Congress, Presidential proclamation, or land and resource management plan, the removal of vegetation is prohibited.

''(3) Areas of Federal lands that comprise less than 6,400 acres and are not contiguous to other Federal lands.

''(e) EXCEPTION FOR O&C LANDS.—The rule of law specified in subsection (a) shall apply to National Forest System lands and Bureau of Land Management lands administered under the authorities of the O&C Sustained Yield Act of 1937 and that do not meet the acreage limitation set forth in subsection (d)(3).

''(f) REPORT REGARDING STATUS OF BUFFER LANDS.—Not later than two years after the date of the enactment of this section, the Secretary concerned shall submit to Congress a report describing the forest health status of all buffer zones with non-Federal lands and the extent to which the buffer zones are in, or are being managed to achieve, the forest health status known as condition class 1.

''(g) DEFINITIONS.—In this section:

''(1) The term 'buffer zone' refers to those forested Federal lands that are within a prescribed distance of a Federal land boundary with non-Federal lands and comprise, or are part of a larger area of Federal lands comprising, 6,400 acres or more. The Secretary shall prescribe the actual buffer zone for a particular area of forested Federal lands based on the geography, topography, and forest cover of the lands.

''(2) The term 'condition class 1', with respect to an area of forested Federal lands or non-Federal lands, means that the lands are managed so that

''(A) fire regimes on the lands are within historical ranges;

''(B) vegetation composition and structure are intact; and

''(C) the risk of losing key ecosystem components from the occurrence of fire remains relatively low.

''(3) The term 'forested Federal lands' means public lands and National Forest System lands that contain trees as a significant component of the lands.

''(4) The term 'Secretary concerned' means the Secretary of the Interior (or the designee of that Secretary) with respect to public lands and the Secretary of Agriculture (or the designee of that Secretary) with respect to National Forest System lands.

''(h) DELAYED EFFECTIVE DATE.—The rule of law specified in subsection (a) shall take effect at the end of the eight-year period beginning on the date of the enactment of this section and apply with respect to fires that spread from Federal lands onto non-Federal lands after the end of such period.''

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Federal Land Policy and Management Act of 1976 is amended by inserting after the item relating to section 318 the following new item:

''Sec. 319. Liability for damages resulting from spread of wildfire from public lands or National Forest System lands.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 179—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN STATE OF NEW HAMPSHIRE V. DONALD JOHNSON

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 179

Whereas, in the case of State of New Hampshire v. Donald Johnson, pending in Concord District Court for the State of New Hampshire, testimony has been requested from Carol Carpenter, a staff member in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it *Resolved* That Carol Carpenter is authorized to provide testimony in the case of State of New Hampshire v. Donald Johnson, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Carol Carpenter in connection with any testimony authorized in section one of this resolution.

SENATE RESOLUTION 180—TO SET STANDARDS FOR THE NAMING OF ANY PART OF THE SENATE WING OF THE CAPITOL BUILDING COMPLEX

Mr. DODD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 180

Resolved,

SECTION 1. STANDARDS FOR NAMING PORTIONS OF THE SENATE WING OF THE CAPITOL.

(a) RESTRICTION.—The Senate shall not name any portion of the Senate wing of the

Capitol Building Complex after any person unless not less than 5 years have passed since the death of that person.

(b) DURATION.—

(1) IN GENERAL.—Except as provided under paragraph (2), the naming, by the Senate, of any portion of the Senate wing of the Capitol Building Complex shall remain in force for a period not to exceed 25 years beginning on the date of enactment of the Act or resolution that established such name.

(2) EXISTING NAMED AREAS.—Any portion of the Senate wing of the Capitol Building Complex that is named as of the date of adoption of this resolution shall no longer be so named after the date that is 25 years after the date of adoption of this resolution.

(c) DEFINITION.—In this resolution, the term ''Senate wing of the Capitol Building Complex'' includes—

(1) the Senate wing of the United States Capitol Building;

(2) the Russell Senate Office Building;

(3) the Dirksen Senate Office Building;

(4) the Hart Senate Office Building; and

(5) spaces designated under the control of the Senate in the Capitol Visitor Center.

AMENDMENTS SUBMITTED & PROPOSED

SA 975. Mr. ROCKEFELLER (for himself, Ms. MIKULSKI, and Mrs. CLINTON) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

SA 976. Mr. ROCKEFELLER (for himself, Mr. CARPER, Mr. GRAHAM, of Florida, Ms. MIKULSKI, Mrs. CLINTON, and Mr. DODD) proposed an amendment to the bill S. 1, supra.

SA 977. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1, supra.

SA 978. Mr. JEFFORDS (for himself, Mr. KERRY, Mr. REID, Mr. DURBIN, and Mr. LAUTENBERG) 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.

SA 979. Mr. AKAKA (for himself, Mr. SARBANES, and Ms. MIKULSKI) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes.

SA 980. Mr. AKAKA proposed an amendment to the bill S. 1, supra.

SA 981. Mr. PRYOR proposed an amendment to the bill S. 1, supra.

SA 982. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 983. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 984. Mr. BINGAMAN proposed an amendment to the bill S. 1, supra.

SA 985. Mr. BAUCUS (for Mr. EDWARDS (for himself and Mr. HARKIN)) proposed an amendment to the bill S. 1, supra .

SA 986. Mr. BAUCUS (for Mr. LAUTENBERG (for himself, Mr. REED, Mrs. CLINTON, and Mr. CORZINE)) proposed an amendment to the bill S. 1, supra.

SA 987. Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. DURBIN, Mr. KERRY, Mr. TALENT, Mr. REED, Mrs. MURRAY, Mr. SPECTER, Mrs. FEINSTEIN, Mr. CORZINE, Mr. BIDEN, Mr. BOND, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 988. Mr. THOMAS (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 989. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 990. Mrs. MURRAY proposed an amendment to the bill S. 1, supra.

SA 991. Mr. HARKIN proposed an amendment to the bill S. 1, supra.

SA 992. Mr. BAUCUS (for Ms. STABENOW (for himself and Ms. SNOWE)) proposed an amendment to the bill S. 1, supra.

SA 993. Mr. BAUCUS (for Mr. DORGAN) proposed an amendment to the bill S. 1, supra.

SA 994. Mr. DURBIN (for himself, Mr. CORZINE, Mr. HARKIN, Mrs. BOXER, Ms. STABENOW, Mr. DAYTON, and Mr. BYRD) proposed an amendment to the bill S. 1, supra.

SA 995. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 996. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 997. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 998. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 999. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1000. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 975. Mr. ROCKEFELLER (for himself, Ms. MIKULSKI, and Mrs. CLINTON) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 10, lines 12 and 13, strike ''(other than a dual eligible individual, as defined in section 1860D–19(a)(4)(E))''.

On page 21, strike lines 22 through 25, and insert ''title XIX through a waiver under 1115 where covered outpatient drugs are the sole medical assistance benefit.''

On page 107, line 3, strike ''30 percent'' and insert ''27.5 percent''.

On page 116, line 10, insert ''and'' after the semi-colon.

On page 116, line 12, strike ''; and'' and insert a period.

On page 116, strike lines 13 through 17.

On page 116, line 24, insert ''and'' after the semi-colon.

On page 117, line 2, strike ''; and'' and insert a period.

On page 117, strike lines 3 through 7.

On page 117, line 13, insert ''and'' after the semicolon.

On page 117, line 17, strike ''; and'' and insert a period.

On page 117, strike lines 18 through 23.

On page 118, line 6, insert ''and'' after the semicolon.

On page 118, in line 13, insert ''or'' after the semi-colon.

On page 118, line 14, strike ''; or'' and insert a period.

On page 118, strike line 15.

Beginning on page 118, strike line 16 and all that follows through page 119, line 9.

On page 119, line 10, strike ''(F)'' and insert ''(E)''.

On page 119, line 15, strike ''(G)'' and insert ''(F)''.

On page 119, line 19, strike ''(C), (D), or (E)'' and insert ''(C), or (D)''.

On page 120, line 3, strike ''(H)'' and insert ''(G)''.

On page 120, lines 5 and 6, strike ''who is a dual eligible individual or an individual''.

Beginning on page 121, line 24, strike ''dual eligible'' and all that follows through ''and'' on page 122, line 1.

On page 146, line 6, insert before the period ''and to the design, development, acquisition or installation of improved data systems necessary to track prescription drug spending for purposes of implementing section 1935(c)''.

Beginning on page 146, strike line 23 and all that follows through page 149, line 21, and insert the following:

''(c) FEDERAL ASSUMPTION OF MEDICAID PRESCRIPTION DRUG COSTS FOR DUALLY ELIGIBLE BENEFICIARIES.—

''(1) IN GENERAL.—For purpose of section 1903(a)(1) for a State for a calendar quarter in a year (beginning with 2006) the amount computed under this subsection is equal to the product of the following:

''(A) STANDARD PRESCRIPTION DRUG COVERAGE UNDER MEDICARE.—With respect to individuals who are residents of the State, who are entitled to, or enrolled for, benefits under part A of title XVIII, or are enrolled under part B of title XVIII and are receiving medical assistance under subparagraph (A)(i), (A)(ii), or (C) of section 1902(a)(10) (or as the result of the application of section 1902(f)) that includes covered outpatient drugs (as defined for purposes of section 1927) under the State plan under this title (including such a plan operated under a waiver under section 1115)—

''(i) the total amounts attributable to such individuals in the quarter under section 1860D–19 (relating to premium and cost-sharing subsidies for low-income medicare beneficiaries); and

''(ii) the actuarial value of standard prescription drug coverage (as determined under section 1860D–6(f)) provided to such individuals in the quarter.

''(B) STATE MATCHING RATE.—A proportion computed by subtracting from 100 percent the Federal medical assistance percentage (as defined in section 1905(b)) applicable to the State and the quarter.

''(C) PHASE-OUT PROPORTION.—Subject to subparagraph (D), the phase-out proportion for a quarter in—

''(i) 2006 is 95 percent;

''(ii) 2007 is 90 percent;

''(iii) 2008 is 85 percent;

''(iv) 2009 is 80 percent;

''(v) 2010 is 75 percent; or

''(vi) 2011, 2012 and 2013 is 70 percent.

''(d) MEDICAID AS SECONDARY PAYOR.—In the case of an individual who is entitled to a Medicare Prescription Drug plan under part D or drug coverage under a MedicareAdvantage plan, and medical assistance including covered outpatient drugs under this title, medical assistance shall continue to be provided under this title for covered outpatient drugs to the extent payment is not made under the Medicare Prescription Drug plan or a MedicareAdvantage plan.

Beginning on page 152, strike line 3 and all that follows through page 153, line 15, and insert the following:

''(f) DEFINITION.—For purposes of this section, the term 'subsidy-eligible individual' has the meaning given that term in subparagraph (D) of section 1860D–19(a)(4).''.

(C) CONFORMING AMENDMENTS.—

(1) Section 1903(a)(1) (42 U.S.C. 1396a(a)(1)) is amended by inserting before the semicolon the following: '', reduced by the amount computed under section 1935(c)(1) for the State and the quarter''.

(2) Section 1108(f) (42 U.S.C. 1308(f)) is amended by inserting ''and section 1935(e)(1)(B)'' after ''Subject to subsection (g)''.

Beginning on page 157, strike line 21 and all that follows through page 158, line 4.

On page 173, beginning on line 15, strike ''that is not'' and all that follows through ''includes'' on line 18 on that page, and insert ''that includes but is limited solely to''.

On page 190, in line 18, strike ''and''.

On page 190, between lines 18 and 19, insert the following:

''(B) is not a dual eligible beneficiary as defined under section 1807(i)(1)(B); and''.

On page 190, line 19, strike ''(B)'' and insert ''(C)''.

SA 976. Mr. ROCKEFELLER (for himself, Mr. CARPER, Mr. GRAHAM of Florida, Ms. MIKULSKI, Mrs. CLINTON, and Mr. DODD) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 51, strike lines 15 through 25 and insert the following:

''(ii) such costs shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

SA 977. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 134, strike line 9 and insert the following:

under paragraph (1).

''(d) IMPLEMENTATION OF PART D.—Notwithstanding section 1860D–1(a)(4) or any other provision of this part or part C, the Secretary shall implement, and make benefits available under, this part on January 1, 2004. The Secretary shall carry out this part until the Administrator is appointed and able to carry out this part. The Secretary shall not implement sections 1807 and 1807A.

SA 978. Mr. JEFFORDS (for himself, Mr. KERRY, Mr. REID, Mr. DURBIN, and Mr. LAUTENBERG) 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:

On page 467, after line 16, add the following:

Subtitle I—Renewable Portfolio Standard

SEC. 192. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

''SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

''(a) RENEWABLE ENERGY REQUIREMENTS.—

''(1) IN GENERAL.—For each calendar year beginning in Calendar year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of non-hydropower (excluding incremental hydropower) electricity sold to retail consumers during the previous calendar year.

''(2) CARRYOVER.—A renewable energy credit for any year that is not used to satisfy the minimum requirement for that year may be carried over for use within the next two years.

''(b) REQUIRED ANNUAL PERCENTAGE.—Of the total amount of non-hydropower (excluding incremental hydropower) electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

	Percentage of Renewable energy Calendar years: each year:
2006–2009	5
2010–2014	10
2015–2019	15
2020 and subsequent years	20

''(c) SUBMISSION OF RENEWABLE ENERGY CREDITS.—

''(1) IN GENERAL.—To meet the requirements under subsection (a), a retail electric supplier shall submit to the Secretary either—

''(A) renewable energy credits issued to the retail electric supplier under subsection (e);

''(B) renewable energy credits obtained by purchase or exchange under subsection (f);

''(C) renewable energy credits purchased from the United States under subsection (g); or

''(D) any combination of credits under subsections (e), (f) or (g).

''(2) PROHIBITION ON DOUBLE COUNTING.—A credit may be counted toward compliance with subsection (a) only once.

''(d) RENEWABLE ENERGY CREDIT PROGRAM.—The Secretary shall establish, not later than 1 year after the date of enactment of this Act, a program to issue, monitor the sale or exchange of, and track, renewable energy credits.

''(e) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

''(1) IN GENERAL.—Under the program established in subsection (d), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

''(2) APPLICATION.—An application for the issuance of renewable energy credits shall indicate—

''(A) the type of renewable energy resource used to produce the electric energy;

''(B) the State in which the electric energy was produced; and

''(C) any other information the Secretary determines appropriate.

''(3) CREDIT VALUE.—Except as provided in subparagraph (4), the Secretary shall issue to an entity applying under this subsection one renewable energy credit for each kilowatt-hour of renewable energy generated in any State from the date of enactment of this Act and in each subsequent calendar year.

''(4) CREDIT VALUE FOR DISTRIBUTED GENERATION.—The Secretary shall issue three renewable energy credits for each kilowatt-hour of distributed generation.

''(5) VESTING.—A renewable energy credit will vest with the owner of the system or facility that generates the renewable energy unless such owner explicitly transfers the credit.

''(6) CREDIT ELIGIBILITY.—To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource shall be sold for retail consumption or used by the generator. If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

''(7) IDENTIFYING CREDITS.—The Secretary shall identify renewable energy credits by the type and date of generation.

''(8) SALE UNDER PURPA CONTRACT.—When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 824a–3), the retail electric supplier is treated as the generator of the electric energy for the purposes of this Act for the duration of the contract.

''(f) SALE OR EXCHANGE OF RENEWABLE ENERGY CREDITS.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit. Credits may be sold or exchanged in any manner not in conflict with existing law, including on the spot market or by contractual arrangements of any duration.

''(g) PURCHASE FROM THE UNITED STATES.—The Secretary shall offer renewable energy credits for sale at the lesser of three cents per kilowatt-hour or 110 percent of the average market value of credits for the applicable compliance period. On January 1 of each year following calendar year 2006, the Secretary shall adjust for inflation the price charged per credit for such calendar year.

''(h) STATE PROGRAMS.—Nothing in this section shall preclude any State from requiring additional renewable energy generation in the State under any renewable energy program conducted by the State.

''(i) CONSUMER ALLOCATION.—The rates charged to classes of consumers by a retail electric supplier shall reflect a proportional percentage of the cost of generating or acquiring the required annual percentage of renewable energy under subsection (a). A retail electric supplier shall not represent to any customer or prospective customer that any product contains more than the percentage of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (a).

''(j) ENFORCEMENT.—A retail electric supplier that does not submit renewable energy credits as required under subsection (a) shall be liable for the payment of a civil penalty. That penalty shall be calculated on the basis of the number of renewable energy credits not submitted, multiplied by the lesser of 4.5 cents or 300 percent of the average market value of credits for the compliance period.

''(k) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

''(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section;

''(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary; and

''(3) the quantity of electricity sales of all retail electric suppliers.

''(l) VOLUNTARY PARTICIPATION.—The Secretary may issue a renewable energy credit pursuant to subsection (e) to any entity not subject to the requirements of this Act only if the entity applying for such credit meets the terms and conditions of this Act to the same extent as entities subject to this Act.

''(m) STATE RENEWABLE ENERGY GRANT PROGRAM.

''(1) DISTRIBUTION TO STATES.—The Secretary shall distribute amounts received from sales under subsection (g) and from amounts received under subsection (j) to States to be used for the purposes of this section.

''(2) REGIONAL EQUITY PROGRAM.—

''(A) ESTABLISHMENT OF PROGRAM.—Within one year from the date of enactment of this Act, the Secretary shall establish a program to promote renewable energy production and use consistent with the purposes of this section.

''(B) ELIGIBILITY.—The Secretary shall make funds available under this section to State energy agencies for grant programs for—

''(i) renewable energy research and development;

''(ii) loan guarantees to encourage construction of renewable energy facilities;

''(iii) consumer rebate or other programs to offset costs of small residential or small commercial renewable energy systems including solar hot water; or

''(iv) promoting distributed generation.

''(3) ALLOCATION PREFERENCES.—In allocating funds under the program, the Secretary shall give preference to

''(A) States in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and

''(B) State grant programs most likely to stimulate or enhance innovative renewable energy technologies.

''(n) DEFINITIONS.—In this section:

''(1) BIOMASS.—

''(A) IN GENERAL.—The term ''biomass'' means—

''(i) organic material from a plant that is planted for the purpose of being used to produce energy;

''(ii) nonhazardous, cellulosic or agricultural waste material that is segregated from other waste materials and is derived from—

''(I) a forest-related resource, including—

''(aa) mill and harvesting residue;

''(bb) precommercial thinnings;

''(cc) slash; and

''(dd) brush;

''(II) agricultural resources, including—

''(aa) orchard tree crops;

''(bb) vineyards;

''(cc) grains;

''(dd) legumes;

''(ee) sugar; and

''(ff) other crop by-products or residues; or

''(III) miscellaneous waste such as—

''(aa) waste pallet;

''(bb) crate; and

''(cc) landscape or right-of-way tree trimmings;

''(iii) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon.

''(B) EXCLUSIONS.—The term 'biomass' shall not include—

''(i) municipal solid waste that is incinerated;

''(ii) recyclable post-consumer waste paper;

''(iii) painted, treated, or pressurized wood;

''(iv) wood contaminated with plastics or metals; or

''(v) tires.

''(2) DISTRIBUTED GENERATION.—The term 'distributed generation' means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.

''(3) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2003, at a hydroelectric dam that was placed in service before January 1, 2003.

''(4) LANDFILL GAS.—The term 'landfill gas' means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

''(5) RENEWABLE ENERGY.—The term 'renewable energy' means electricity generated from

''(A) a renewable energy source; or

''(B) hydrogen that is produced from a renewable energy source.

''(5) RENEWABLE ENERGY SOURCE.—The term 'renewable energy source' means—

''(A) wind;

''(B) ocean waves;

''(C) biomass;

''(D) solar;

''(E) landfill gas;

''(F) incremental hydropower; or

''(G) geothermal.

''(6) RETAIL ELECTRIC SUPPLIER.—The term 'retail electric supplier' means a person or entity that sells retail electricity to consumers, and which sold not less than 500,000 megawatt-hours of electric energy to consumers for purposes other than resale during the preceding calendar year.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

SA 979. Mr. AKAKA (for himself, Mr. SARBANES, and Ms. MIKULSKI) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . NEGOTIATIONS BY THE OFFICE OF PERSONNEL MANAGEMENT.

The Office of Personnel Management may not negotiate a prescription drug benefit for any health benefits plan under chapter 89 of title 5, United States Code, that would provide a prescription drug benefit to a medicare eligible enrollee in that plan that is of lesser actuarial value, based on 2003 constant dollars, than the prescription drug benefit available to a medicare eligible enrollee of such plan on the date of enactment of this Act.

SA 980. Mr. AKAKA proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 636, line 16, insert ''and citizens of the Freely Associated States, which include the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, lawfully residing in the United States'' after ''Act''.

SA 981. Mr. PRYOR proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the appropriate place, add the following:

SEC. ___. EQUAL ACCESS TO COMPETITIVE GLOBAL PRESCRIPTION MEDICINE PRICES FOR AMERICAN PURCHASERS.

(a) DEFINITION OF COVERED PRODUCT.—In this section, the term ''covered product'' has the meaning given the term in section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

(b) PROHIBITION.—It shall be unlawful for the manufacturer of a covered product or any other person that sells a covered product to refuse to sell to any wholesaler or retailer (or other purchaser representing a group of wholesalers or retailers) of covered products in the United States on terms (including such terms as prompt payment, cash payment, volume purchase, single-site delivery, the use of formularies by purchasers, and any other term that effectively reduces the cost to the manufacturer of supplying the drug) that are not substantially the same as the most favorable (to the purchaser) terms on which the person has sold or has agreed to sell the covered product to any purchaser in Canada.

(c) ENFORCEMENT.—The Secretary of Health and Human Services, or any wholesaler or retailer in the United States aggrieved by a violation of subsection (b), may bring a civil action in United States district court against a person that violates subsection (b) for an order—

(1) enjoining the violation; and

(2) awarding damages in the amount that is equal to 3 times the amount of the value of the difference between—

(A) the terms on which the person sold a covered product to the wholesaler or retailer; and

(B) the terms on which the person sold the covered product to a person in Canada.

(d) EFFECTIVENESS OF SECTION.—This section takes effect on the date that is 2 years after the date of enactment of this Act, except that this section shall not be in effect during any period after that date in which there is in effect a final regulation promulgated by the Secretary of Health and Human Services permitting the importation or reimportation of prescription drugs under section 804 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 384).

SA 982. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following:

SEC. ___. IMPLEMENTATION OF TITLE.

Notwithstanding any other provision of this Act, the amendments made by this title shall be implemented and administered so that prescription drug coverage is first provided under part D of title XVIII beginning on July 1, 2004.

SA 983. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 676, after line 22, insert the following:

SEC. ___. PROVISION OF INFORMATION ON ADVANCE DIRECTIVES.

Section 1804(c) of the Social Security Act (42 U.S.C. 1395b–2(c)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) in the matter preceding subparagraph (A), as so redesignated, by striking ''The notice'' and inserting ''(1) The notice''; and

(3) by adding at the end the following:

''(2)(A) The Secretary shall annually provide each medicare beneficiary with information concerning advance directives. Such information shall be provided by the Secretary as part of the Medicare and You handbook that is provided to each such beneficiary. Such handbook shall include a separate section on advanced directives and specific details on living wills and the durable power of attorney for health care. The Secretary shall ensure that the introductory letter that accompanies such handbook contain a statement concerning the inclusion of such information.

''(B) In this section:

''(i) The term 'advance directive' has the meaning given such term in section 1866(f)(3).

''(ii) The term 'medicare beneficiary' means an individual who is entitled to, or enrolled for, benefits under part A or enrolled under part B, of this title.''.

SA 984. Mr. BINGAMAN proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end of subtitle C of title II, add the following:

SEC. ____. CARVING OUT DSH PAYMENTS FROM PAYMENTS TO MEDICARE+CHOICE AND MEDICAREADVANTAGE ORGANIZATIONS AND PAYING THE AMOUNTS DIRECTLY TO DSH HOSPITALS ENROLLING MEDICARE+CHOICE AND MEDICAREADVANTAGE ENROLLEES.

(a) REMOVAL OF DSH PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—

(1) UNDER MEDICARE+CHOICE.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3) and as amended by section 203) is amended—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)'',

(B) by adding at the end the following new subparagraph:

''(E) REMOVAL OF PAYMENTS ATTRIBUTABLE TO DISPROPORTIONATE SHARE PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For each year (beginning with 2004), the area-specific Medicare+Choice capitation rate under subparagraph (A)(ii) shall be adjusted to exclude from such rate the portion of such rate that the Secretary estimates is attributable to additional payment amounts described in section 1886(d)(5)(F) (treating hospitals reimbursed under section 1814(b)(3) as if such hospitals were reimbursed under section 1886).''.

(2) UNDER MEDICAREADVANTAGE.—Section 1853(a)(5) (as amended by section 203) is amended by adding at the end the following new subparagraph:

''(C) REMOVAL OF PAYMENTS ATTRIBUTABLE TO DISPROPORTIONATE SHARE PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For each year (beginning with 2004), the area-specific Medicare+Choice capitation rate under subparagraph (A)(ii) shall be adjusted to exclude from such rate the portion of such rate that the Secretary estimates is attributable to additional payment amounts described in section 1886(d)(5)(F) (treating hospitals reimbursed under section 1814(b)(3) as if such hospitals were reimbursed under section 1886).''.

(3) EFFECTIVE DATES.—The amendments made—

(A) by paragraph (1) shall apply to plan years beginning on and after January 1, 2004 and shall continue to apply to plan years beginning on and after January 1, 2006; and

(B) by paragraph (2) shall apply to plan years beginning on and after January 1, 2006.

(b) ADDITIONAL DSH PAYMENTS FOR MANAGED CARE ENROLLEES.—Section 1886(d)(5)(F) ((42 U.S.C. 1395ww(d)(5)(F)) is amended—

(1) in clause (ii), by striking ''clause (ix)'' and inserting ''clauses (ix) and (xvi)''; and

(2) by adding at the end the following new clause:

''(xvi)(I) For portions of cost reporting periods occurring on or after January 1, 2004, the Secretary shall provide for an additional payment amount for each applicable discharge of any subsection (d) hospital that is a disproportionate share hospital (as described in clause (i)).

''(II) For purposes of this clause the term 'applicable discharge' means the discharge of any individual who is enrolled under a risk-sharing contract with a eligible organization under section 1876 and who is entitled to benefits under part A and any individual who is enrolled with a Medicare+Choice organization or a MedicareAdvantage organization under part C.

''(III) The amount of the payment under this clause with respect to any applicable discharge shall be equal to the estimated average per discharge amount that would otherwise have been paid under this subparagraph if the individuals had not been enrolled as described in subclause (II).

''(IV) The Secretary shall establish rules for paying an additional amount for any hospital reimbursed under a reimbursement system authorized under 1814(b)(3) if such hospital would qualify as a disproportionate share hospital under clause (i) were it not so reimbursed. Such payment shall be determined in the same manner as the amount of payment is determined under this clause for disproportionate share hospitals.''.

SA 985. Mr. BAUCUS (for Mr. EDWARDS (for himself and Mr. HARKIN)) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end, add the following:

TITLE ____—DIRECT-TO-CONSUMER PRESCRIPTION DRUG ADVERTISING

SEC. ____01. HEAD-TO-HEAD TESTING AND DIRECT-TO-CONSUMER ADVERTISING.

(a) NEW DRUG APPLICATION.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended—

(1) in subparagraph (A) of the second sentence of subsection (b)(1), by inserting before the semicolon at the end the following ''(including whether the drug is safe and effective for use in comparison with other drugs available for substantially the same indications for use prescribed, recommended, or suggested in the labeling proposed for the drug)''; and

(2) in subsection (d)(5)—

(A) by inserting ''(A)'' after ''will''; and

(B) by inserting after ''thereof'' the following: ''or (B) offer a benefit with respect to safety, effectiveness, or cost (including effectiveness with respect to a sub population or condition) that is greater than the benefit offered by other drugs available for substantially the same indications for use prescribed, recommended, or suggested in the labeling proposed for the drug''.

(b) MISBRANDING.—Section 502(n)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)(3)) is amended by inserting after ''effectiveness'' the following: ''(including effectiveness in comparison to other drugs for substantially the same condition or conditions)''.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate amended regulations governing prescription drug advertisements.

(2) CONTENTS.—In addition to any other requirements, the regulations under paragraph (1) shall require that—

(A) any advertisement present a fair balance, comparable in depth and detail, between—

(B) any advertisement present a fair balance, comparable in depth, between—

(i)aural and visual presentations relating to effectiveness of the drug; and

(ii) aural and visual presentations relating to side effects and contraindications, *provided that*, nothing in this section shall require explicit images or sounds depicting side effects and contraindication;

(i) information relating to effectiveness of the drug (including effectiveness in comparison to similar drugs for substantially the same condition or conditions); and

(ii) information relating to side effects and contraindications;

(C) prohibit false or misleading advertising that would encourage a consumer to take the prescription drug for a use other than a use for which the prescription drug is approved under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); and

(D) require that any prescription drug that is the subject of a direct-to-consumer advertisement include in the package in which the prescription drug is sold to consumers a medication guide explaining the benefits and risks of use of the prescription drug in terms designed to be understandable to the general public.

SEC. ____02. CIVIL PENALTY.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

''(h) DIRECT-TO-CONSUMER PRESCRIPTION DRUG ADVERTISING.—

''(1) IN GENERAL.—A person that commits a violation of section 301 involving the misbranding of a prescription drug (within the meaning of section 502(n)) in a direct-to-consumer advertisement shall be assessed a civil penalty if—

''(A) the Secretary provides the person written notice of the violation; and

''(B) the person fails to correct or cease the advertisement so as to eliminate the violation not later than 180 days after the date of the notice.

''(2) AMOUNT.—The amount of a civil penalty under paragraph (1)—

''(A) shall not exceed $500,000 in the case of an individual and $5,000,000 in the case of any other person; and

''(B) shall not exceed $10,000,000 for all such violations adjudicated in a single proceeding.

''(3) PROCEDURE.—Paragraphs (3) through (5) of subsection (g) apply with respect to a civil penalty under paragraph (1) of this subsection to the same extent and in the same manner as those paragraphs apply with respect to a civil penalty under paragraph (1) or (2) of subsection (g).''.

SEC. ____03. REPORTS.

The Secretary of Health and Human Services shall annually submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that, for the most recent 1-year period for which data are available—

(1) provides the total number of direct-to-consumer prescription drug advertisements made by television, radio, the Internet, written publication, or other media;

(2) identifies, for each such advertisement—

(A) the dates on which, the times at which, and the markets in which the advertisement was made; and

(B) the type of advertisement (reminder, help-seeking, or product-claim); and

(3)(A) identifies the advertisements that violated or appeared to violate section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)); and

(B) describes the actions taken by the Secretary in response to the violations.

SEC. ___04. REVIEW OF DIRECT-TO-CONSUMER DRUG ADVERTISEMENTS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall expedite, to the maximum extent practicable, reviews of the legality of direct-to-consumer drug advertisements.

(b) POLICY.—The Secretary of Health and Human Services shall not adopt or follow any policy that would have the purpose or effect of delaying reviews of the legality of direct-to-consumer drug advertisements except—

(1) as a result of notice-and-comment rulemaking; or

(2) as the Secretary determines to be necessary to protect public health and safety.

SA 986. Mr. BAUCUS (for Mr. LAUTENBERG (for himself, Mr. REED, Mrs. CLINTON, and Mr. CORZINE)) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end of title I, insert the following:

SEC. ___. IMPLEMENTATION OF TITLE.

Notwithstanding any other provision of this Act, the amendments made by this title shall be implemented and administered so that prescription drug coverage is first provided under part D of title XVIII beginning on July 1, 2004.

SA 987. Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. DURBIN, Mr. KERRY, Mr. TALENT, Mr. REED, Mrs. MURRAY, Mr. SPECTER, Mrs. FEINSTEIN, Mr. CORZINE, Mr. BIDEN, Mr. BOND, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

SEC. ___. FREEZING INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT PERCENTAGE AT 6.5 PERCENT.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by striking ''and'' at the end; and

(2) by striking subclause (VII) and inserting the following new subclauses:

''(VII) during fiscal year 2003, ''c'' is equal to 1.35; and

''(VIII) on or after October 1, 2003, 'c' is equal to 1.6.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or the Prescription Drug and Medicare Improvement Act of 2003'' after ''2000''.jennifer

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SA 988. Mr. THOMAS (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IV, add the following:

SEC. ___. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (U), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (V)(iii), by inserting ''and'' after the semicolon at the end; and

(C) 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));''.

(2) 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.''.

(3) 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;''.

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) (42 U.S.C. 1395*l*(a)(1)) is amended—

(A) by striking ''and (U)'' and inserting ''(U)''; and

(B) 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)''.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)), as amended in section 301(a), is amended by inserting ''marriage and family therapist services (as defined in subsection (ww)(1)), mental health counselor services (as defined in section 1861(ww)(3)),'' after ''qualified psychologist services,''.

(6) 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 section shall apply with respect to services furnished on or after January 1, 2004.

SA 989. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill S. 1, to amend title

XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle C of title IV, insert the following:

SEC. ___. INCREASE IN MEDICARE PAYMENT FOR CERTAIN HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended by adding at the end the following:

''(f) INCREASE IN PAYMENT FOR SERVICES FURNISHED IN A RURAL AREA.—

''(1) IN GENERAL.—In the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D)) on or after October 1, 2003 and before October 1, 2006, the Secretary shall increase the payment amount otherwise made under this section for such services by 10 percent.

''(2) WAIVER OF BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under this section applicable to home health services furnished during any period to offset the increase in payments resulting from the application of paragraph (1).''.

(b) PAYMENT ADJUSTMENT.—Section 1895(b)(5) of the Social Security Act (42 U.S. C. 1395fff(b)(5)) is amended by adding at the end the following:''Notwithstanding this paragraph, the total amount of the additional payments or payment adjustments made under this paragraph may not exceed, with respect to fiscal year 2004, 3 percent, and, with respect to fiscal years 2005 and 2006, 4 percent, of the total payments projected or estimated to be made based on the prospective payment system under this subsection in the year involved.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 2003.

SA 990. Mrs. MURRAY proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the end of subtitle A of title II, add the following:

SEC. ___. IMPROVEMENTS IN MEDICARE-ADVANTAGE BENCHMARK DETERMINATIONS.

(a) REVISION OF NATIONAL AVERAGE USED IN CALCULATION OF BLEND.—Section 1853(c)(4)(B)(i)(II) (42 U.S.C. 1395w–23(c)(4)(B)(i)(II)), as amended by section 203, is amended by inserting ''who are enrolled in a MedicareAdvantage plan'' after ''the average number of medicare beneficiaries''.

(b) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w–23(c)), as amended by section 203, is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by striking the comma at the end and inserting a period; and

(B) by striking the flush matter following clause (ii); and

(2) by striking paragraph (5).

(c) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES IN CALCULATION OF MEDICAREADVANTAGE PAYMENT RATES.—

(1) FOR PURPOSES OF CALCULATING MEDICARE+CHOICE PAYMENT RATES.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3)), as amended by section 203, is amended—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (E)''; and

(B) by adding at the end the following new subparagraph:

''(E) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the area-specific Medicare+Choice capitation rate under subparagraph (A) for a year (beginning with 2006), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.''.

(2) FOR PURPOSES OF CALCULATING LOCAL FEE-FOR-SERVICE RATES.—Section 1853(d)(5) (42 U.S.C. 1395w–23(d)(5)), as amended by section 203, is amended—

(A) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(B) by adding at the end the following new subparagraph:

''(C) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—In determining the local fee-for-service rate under subparagraph (A) for a year (beginning with 2006), the annual per capita rate of payment for 1997 determined under section 1876(a)(1)(C) shall be adjusted to include in the rate the Secretary's estimate, on a per capita basis, of the amount of additional payments that would have been made in the area involved under this title if individuals entitled to benefits under this title had not received services from facilities of the Department of Defense or the Department of Veterans Affairs.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on and after January 1, 2006.

SA 991. Mr. HARKIN proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___—MEDICAID DEMONSTRATION PROJECTS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Money Follows the Person Act of 2003''.

SEC. ___02. FINDINGS.

Congress makes the following findings:

(1) In his budget for fiscal year 2004, President George W. Bush proposes a ''Money Follows the Person'' rebalancing initiative under the medicaid program to help States rebalance their long-term services support systems more evenly between institutional and community-based services.

(2) The President, by proposing this initiative, and Congress, recognize that States have not fully developed the systems needed to create a more equitable balance between institutional and community-based services spending under the medicaid program.

(3) While a few States have been successful at achieving this balance, nationally, approximately 70 percent of the medicaid funding spent for long-term services is devoted to nursing facilities and intermediate care facilities for the mentally retarded. Only 30 percent of such funding is spent for community-based services.

(4) As a result, there are often long waiting lists for community-based services and supports.

(5) In the Americans with Disabilities Act of 1990, Congress found that individuals with disabilities continue to encounter various forms of discrimination, including segregation, and that discrimination persists in such critical areas as institutionalization.

(6) In 1999, the Supreme Court held in *Olmstead v. LC* (527 U.S. 581 (1999)) that needless institutionalization is discrimination under the Americans with Disabilities Act of 1990, noting that institutional placement of people who can be served in the community ''perpetuates unwarranted assumptions that persons so isolated are unworthy of participating in community life.'' (Id. at 600). The Court further found that ''confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.'' (Id. at 601).

(7) Additional resources would be helpful for assisting States in rebalancing their long-term services support system and complying with the *Olmstead* decision.

SEC. ___03. AUTHORITY TO CONDUCT MEDICAID DEMONSTRATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) COMMUNITY-BASED SERVICES AND SUPPORTS.—The term ''community-based services and supports'' means, with respect to a State, any items or services that are an allowable expenditure for medical assistance under the State medicaid program, or under a waiver of such program and that the State determines would allow an individual to live in the community.

(2) INDIVIDUAL'S REPRESENTATIVE; REPRESENTATIVE.—The terms ''individual's representative'' and ''representative'' mean a parent, family member, guardian, advocate, or authorized representative of an individual.

(3) MEDICAID LONG-TERM CARE FACILITY.—The term ''medicaid long-term care facility'' means a hospital, nursing facility, or intermediate care facility for the mentally retarded, as such terms are defined for purposes of the medicaid program.

(4) MEDICAID PROGRAM.—The term ''medicaid program'' means the State medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(6) STATE.—The term ''State'' has the meaning given such term for purposes of the medicaid program.

(b) STATE APPLICATION.—A State may apply to the Secretary for approval to conduct a demonstration project under which the State shall provide community-based services and supports to individuals—

(1) who are eligible for medical assistance under the medicaid program;

(2) who are residing in a medicaid long-term care facility and who have resided in such facility for at least 90 days; and

(3) with respect to whom there has been a determination that but for the provision of community-based services and supports, the individuals would continue to require the level of care provided in a medicaid long-term care facility.

(c) REQUIREMENTS.—A State is not eligible to conduct a demonstration project under this section unless the State certifies the following:

(1) With respect to any individual provided community-based services and supports under the demonstration project, the State shall continue to provide community-based services and supports to the individual under the medicaid program (and at the State's Federal medical assistance percentage (as

defined in section 1905(b) of the Social Security Act) reimbursement rate), for as long as the individual remains eligible for medical assistance under the State medicaid program and continues to require such services and supports, beginning with the month that begins after the 12-month period in which the individual is provided such services and supports under the demonstration project.

(2) The State shall allow an individual participating in the demonstration project (or, as appropriate, the individual's representative) to choose the setting in which the individual desires to receives the community-based services and supports provided under the project.

(3) The State shall identify and educate individuals residing in a medicaid long-term care facility who are eligible to participate in the demonstration project (and, as appropriate the individual's representative) about the opportunity for the individual to receive community-based services and supports under the demonstration project.

(4) The State shall ensure that each individual identified in accordance with paragraph (3) (and, as appropriate, the individual's representative), has the opportunity, information, and tools to make an informed choice regarding whether to transition to the community through participation in the demonstration project or to remain in the medicaid long-term care facility.

(5) The State shall maintain an adequate quality improvement system so that individuals participating in the demonstration project receive adequate services and supports.

(6) The State shall conduct a process for public participation in the design and development of the demonstration project and such process shall include the participation of individuals with disabilities, elderly individuals, or individuals with chronic conditions who are part of the target populations to be served by the demonstration project, and the representatives of such individuals.

(7) The Federal funds paid to a State pursuant to this section shall only supplement, and shall not supplant, the level of State funds expended for providing community-based services and supports for individuals under the State medicaid program as of the date the State application to conduct a demonstration project under this section is approved.

(d) APPROVAL OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall conduct a competitive application process with respect to applications submitted under subsection (b) (taking into consideration the preferences provided under paragraph (2)) that meet the requirements of subsection (c). In determining whether to approve such an application, the Secretary may waive the requirement of—

(A) section 1902(a)(1) of the Social Security Act (42 U.S.C. 1396a(a)(1)) to allow for sub-State demonstrations;

(B) section 1902(a)(10)(B) of such Act (42 U.S.C. 1396a(a)(10)(B)) with respect to comparability; and

(C) section 1902(a)(10)(C)(i)(III) of such Act (42 U.S.C. 1396a(a)(10)(C)(i)(III)) with respect to income and resource limitations.

(2) PREFERENCE FOR CERTAIN APPLICATIONS.—In approving applications to conduct demonstration projects under this section, the Secretary shall give preference to approving applications that indicate that the State shall do the following:

(A) Design and implement enduring improvements in community-based long-term services support systems within the State to enable individuals with disabilities to live and participate in community life, particularly with respect to those practices that will ensure the successful transition of such individuals from medicaid long-term care facilities into the community.

(B) Design and implement a long-term services support system in the State that prevents individuals from entering medicaid long-term care facilities in order to gain access to community-based services and supports.

(C) Engage in systemic reform activities within the State to rebalance expenditures for long-term services under the State medicaid program through administrative actions that reduce reliance on institutional forms of service and build up more community capacity.

(D) Address the needs of populations that have been underserved with respect to the availability of community services or involve individuals or entities that have not previously participated in the efforts of the State to increase access to community-based services.

(E) Actively engage in collaboration between public housing agencies, the State medicaid agency, independent living centers, and other agencies and entities in order to coordinate strategies for obtaining community integrated housing and supportive services for an individual who participates in the demonstration project, both with respect to the period during which such individual participates in the project and after the individual's participation in the project concludes, in order to enable the individual to continue to reside in the community.

(F) Develop and implement policies and procedures that allow the State medicaid agency to administratively transfer or integrate funds from the State budget accounts that are obligated for expenditures for medicaid long-term care facilities to other accounts for obligation for the provision of community-based services and supports (including accounts related to the provision of such services under a waiver approved under section 1915 of the Social Security Act (42 U.S.C. 1396n)) when an individual transitions from residing in such a facility to residing in the community.

(e) PAYMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall pay to each State with a demonstration project approved under this section an amount for each quarter occurring during the period described in paragraph (2) equal to 100 percent of the State's expenditures in the quarter for providing community-based services and supports to individuals participating in the demonstration project.

(2) PERIOD DESCRIBED.—The period described in this paragraph is the 12-month period that begins on the date on which an individual first receives community-based services and supports under the demonstration project in a setting that is not a medicaid long-term care facility and is selected by the individual.

(f) REPORTS.—

(1) IN GENERAL.—Each State conducting a demonstration project under this section shall submit a report to the Secretary that, in addition to such other requirements as the Secretary may require, includes information regarding—

(A) the types of community-based services and supports provided under the demonstration project;

(B) the number of individuals served under the project;

(C) the expenditures for, and savings resulting from, conducting the project; and

(D) to the extent applicable, the changes in State's long-term services system developed in accordance with the provisions of subsection (d)(2).

(2) UNIFORM DATA FORMAT.—In requiring information under this subsection, the Secretary shall develop a uniform data format to be used by States in the collection and submission of data in the State report required under paragraph (1).

(g) EVALUATIONS.—The Secretary shall use an amount, not to exceed one-half of 1 percent of the amount appropriated under subsection (h) for each fiscal year, to provide, directly or through contract—

(1) for the evaluation of the demonstration projects conducted under this section;

(2) technical assistance to States concerning the development or implementation of such projects; and

(3) for the collection of the data described in subsection (f)(1).

(h) FUNDING.—There is appropriated to carry out this section, $350,000,000 for each of fiscal years 2004 through 2008. Funds appropriated under the preceding sentence for a fiscal year shall remain available until expended, but not later than September 30, 2008.

SEC. ___04. MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) TECHNICAL AMENDMENT CONCERNING SECRETARY'S AUTHORITY TO MAKE CONDITIONAL PAYMENT WHEN CERTAIN PRIMARY PLANS DO NOT PAY PROMPTLY.—

(1) IN GENERAL.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended—

(A) in subparagraph (A)(ii), by striking ''promptly (as determined in accordance with regulations)'';

(B) in subparagraph (B)—

(i) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), respectively; and

(ii) by inserting before clause (ii), as so redesignated, the following new clause:

''(i) AUTHORITY TO MAKE CONDITIONAL PAYMENT.—The Secretary may make payment under this title with respect to an item or service if a primary plan described in subparagraph (A)(ii) has not made or cannot reasonably be expected to make payment with respect to such item or service promptly (as determined in accordance with regulations). Any such payment by the Secretary shall be conditioned on reimbursement to the appropriate Trust Fund in accordance with the succeeding provisions of this subsection.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if included in the enactment of title III of the Medicare and Medicaid Budget Reconciliation Amendments of 1984 (Public Law 98-369).

(b) CLARIFYING AMENDMENTS TO CONDITIONAL PAYMENT PROVISIONS.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is further amended—

(1) in subparagraph (A), in the matter following clause (ii), by inserting the following sentence at the end: ''An entity that engages in a business, trade, or profession shall be deemed to have a self-insured plan if it carries its own risk (whether by a failure to obtain insurance, or otherwise) in whole or in part.'';

(2) in subparagraph (B)(ii), as redesignated by subsection (a)(2)(B)—

(A) by striking the first sentence and inserting the following: ''A primary plan, and an entity that receives payment from a primary plan, shall reimburse the appropriate Trust Fund for any payment made by the Secretary under this title with respect to an item or service if it is demonstrated that such primary plan has or had a responsibility to make payment with respect to such item or service. A primary plan's responsibility for such payment may be demonstrated by a judgment, a payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items or services included in a

claim against the primary plan or the primary plan's insured, or by other means.''; and

(B) in the final sentence, by striking ''on the date such notice or other information is received'' and inserting ''on the date notice of, or information related to, a primary plan's responsibility for such payment or other information is received''; and

(3) in subparagraph (B)(iii), as redesignated by subsection (a)(2)(B), by striking the first sentence and inserting the following: ''In order to recover payment made under this title for an item or service, the United States may bring an action against any or all entities that are or were required or responsible (directly, as an insurer or self-insurer, as a third-party administrator, as an employer that sponsors or contributes to a group health plan, or large group health plan, or otherwise) to make payment with respect to the same item or service (or any portion thereof) under a primary plan. The United States may, in accordance with paragraph (3)(A) collect double damages against any such entity. In addition, the United States may recover under this clause from any entity that has received payment from a primary plan or from the proceeds of a primary plan's payment to any entity.''.

(c) CLERICAL AMENDMENTS.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended—

(1) in paragraph (1)(A), by moving the indentation of clauses (ii) through (v) 2 ems to the left; and

(2) in paragraph (3)(A), by striking ''such'' before ''paragraphs''.

SA 992. Mr. BAUCUS (for Ms. STABENOW (for herself and Ms. SNOWE)) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

On page 158, between lines 4 and 5, insert the following:

(f) CLARIFICATION OF STATE AUTHORITY RELATING TO MEDICAID DRUG REBATE AGREEMENTS.—Section 1927 (42 U.S.C. 1396r–8) is amended by adding at the end the following:

''(l) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from—

''(1) directly entering into rebate agreements (on the State's own initiative or under a section 1115 waiver approved by the Secretary before, on, or after the date of enactment of this subsection) that are similar to a rebate agreement described in subsection (b) with a manufacturer for purposes of ensuring the affordability of outpatient prescription drugs in order to provide access to such drugs by residents of a State who are not otherwise eligible for medical assistance under this title; or

''(2) making prior authorization (that satisfies the requirements of subsection (d) and that does not violate any requirements of this title that are designed to ensure access to medically necessary prescribed drugs for individuals enrolled in the State program under this title) a condition of not participating in such a similar rebate agreement.''.

SA 993. Mr. BAUCUS (for Mr. DORGAN) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

At the appropriate place in title IV, insert the following:

SEC. ___. COVERAGE OF CARDIOVASCULAR SCREENING TESTS.

(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)(iii), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(W) cardiovascular screening tests (as defined in subsection (ww)(1));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Cardiovascular Screening Tests

''(ww)(1) The term 'cardiovascular screening tests' means the following diagnostic tests for the early detection of cardiovascular disease:

''(A) Tests for the determination of cholesterol levels.

''(B) Tests for the determination of lipid levels of the blood.

''(C) Such other tests for cardiovascular disease as the Secretary may approve.

''(2)(A) Subject to subparagraph (B), the Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency and type of cardiovascular screening tests.

''(B) With respect to the frequency of cardiovascular screening tests approved by the Secretary under subparagraph (A), in no case may the frequency of such tests be more often than once every 2 years.''.

(c) FREQUENCY.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (H);

(2) by striking the semicolon at the end of subparagraph (I) and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(J) in the case of a cardiovascular screening test (as defined in section 1861(ww)(1)), which is performed more frequently than is covered under section 1861(ww)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2004.

SA 994. Mr. DURBIN (for himself, Mr. CORZINE, Mr. HARKIN, Mrs. BOXER, Ms. STABENOW, Mr. DAYTON, and Mr. BYRD) proposed an amendment to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; as follows:

Beginning on page 48, strike line 13 through page 50, line 2 and insert the following:

''(1) NO DEDUCTIBLE.—

''(A) IN GENERAL.—The coverage provides for benefits without the application of a deductible.

''(B) APPLICATION.—Notwithstanding the succeeding provisions of this part, the Administrator shall not apply section 1860D–19(a)(3)(A)(ii).

''(2) LIMITS ON COST-SHARING.—

''(A) IN GENERAL.—The coverage has cost-sharing (for costs up to the annual out-of-pocket limit under paragraph (4)) that is equal to 30 percent or that is actuarially consistent (using processes established under subsection (f)) with an average expected payment of 30 percent of such costs.

''(B) APPLICATION.—Notwithstanding the succeeding provisions of this part, the Administrator shall not apply subsection (d)(1)(C) and paragraphs (1)(D), (2)(D), and (3)(A)(iv) of section 1860D–19(a).

On page 50, line 15, strike ''$3,700'' and insert ''$1,500''.

On page 51, strike lines 15 through 25 and insert the following:

''(ii) such costs shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

Beginning on page 77, strike line 10 and all that follows through page 84, line 7, and insert the following:

''(e) MEDICARE OPERATED PLAN OPTION.—

''(1) ACCESS.—The Administrator shall establish and operate a national plan to provide any eligible beneficiary enrolled under this part (and not, except for an MSA plan or a private fee-for-service plan that does not provide qualified prescription drug coverage, enrolled in a MedicareAdvantage plan) electing such plan with standard prescription drug coverage. Under such plan, the Administrator shall negotiate with pharmaceutical manufacturers with respect to the purchase price of covered drugs and shall encourage the use of more affordable therapeutic equivalents to the extent such practices do not override medical necessity as determined by the prescribing physician. To the extent practicable and consistent with the previous sentence, the Administrator shall implement strategies similar to those used by other Federal purchasers of prescription drugs, and other strategies, to reduce the purchase cost of covered drugs. Eligible beneficiaries enrolled under this part shall have the option of enrolling in such plan or in a Medicare Prescription Drug plan or a MedicareAdvantage plan available in the area in which the beneficiary resides.

''(2) MONTHLY BENEFICIARY OBLIGATION FOR ENROLLMENT.—

''(A) IN GENERAL.—In the case of an eligible beneficiary enrolled in the plan operated by the Administrator under paragraph (1), the monthly beneficiary obligation of such beneficiary for such enrollment shall be—

''(i) for months in the first year of implementation, $35; and

''(ii) for months in a subsequent year, the lesser of—

''(I) the amount determined under this paragraph for months in the previous year, increased by the annual percentage increase described in section 1860D–6(c)(5) for the year involved; or

''(II) in the case of months in years prior to 2014, the specified amount.

''(B) SPECIFIED AMOUNT.—For purposes of this paragraph, the term 'specified amount' means—

''(i) for months in the second year of implementation, $37;

''(ii) for months in the third year of implementation, $40;

''(iii) for months in the fourth year of implementation, $43;

''(iv) for months in the fifth year of implementation, $46;

''(v) for months in the sixth year of implementation, $51;

''(vi) for months in the seventh year of implementation, $54; and

''(vii) for months in the eighth year of implementation, $59.

''(3) NO AFFECT ON ACCESS REQUIREMENTS.—The plan operated by the Administrator under paragraph (1) shall be in addition to the plans required under subsection (d)(1).

''(4) REQUIREMENT TO PREVENT INCREASED COSTS.—If the Administrator determines that Federal payments made with respect to

eligible beneficiaries enrolled in the plan operated by the Administrator under paragraph (1) exceed on average the Federal payments made with respect to eligible beneficiaries enrolled in a Medicare Prescription Drug plan or a MedicareAdvantage plan (with respect to qualified prescription drug coverage), the Administrator shall adjust the requirements or payments under such a contract to eliminate such excess.

''(f) TWO-YEAR CONTRACTS.—A contract approved under this section for a Medicare Prescription Drug plan shall be for a 2-year period.

''(g) IMPLEMENTATION OF PART D.—Notwithstanding any other provision of this part or part C, the Secretary shall implement, and make benefits available under, this part as soon as practicable after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, but in no case later than January 1, 2006. The Secretary shall carry out this part until the Administrator is appointed and able to carry out this part.

On page 134, strike line 9 and insert the following:

under paragraph (1).

''(d) SPECIAL RULES FOR STATE PHARMACEUTICAL ASSISTANCE PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, in the case of the sponsor of a State pharmaceutical assistance program that seeks to offer a Medicare Prescription Drug plan under this part, the following special rules apply:

''(A) WAIVER OF LICENSURE.—Section 1860D–7(a)(1) shall not apply.

''(B) PERMITTING LIMITATION ON ENROLLMENT.—The sponsor may restrict eligibility to enroll in the plan to those low-income individuals who qualify (or meet the standards for qualification) for the State pharmaceutical assistance program.

''(C) OTHER REQUIREMENTS.—The Administrator may waive such other requirements of this part as the Administrator finds appropriate to promote the role of State pharmaceutical assistance programs under this part.

''(2) DEFINITION.—For purposes of this part, the term 'State pharmaceutical assistance program' means a program, in operation as of the date of enactment of this title, that is sponsored or underwritten by a State, that was established pursuant to a waiver under section 1115 or otherwise, and that provides financial assistance with out-of-pocket expenses with respect to covered outpatient drugs for individuals in the State who meet income-related qualifications specified under such program.

''(3) CONSTRUCTION.—Nothing in this subsection shall affect the provisions of subsection (b).''.

At the end of title VI, add the following:

SEC. ___. NEED FOR RENEWAL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of, and amendments made by, this Act shall remain in effect but shall be superseded by the Director of the Office of Management and Budget on the date that the total of the increased Federal expenditures by reason of such amendments and provisions has reached $400,000,000,000.

(b) APPLICATION.—Any provision of law amended or effected by this Act shall be applied and administered after the date described in subsection (a) as if the provisions of, and amendments made by, this Act had never been enacted.

(c) NOTIFICATION.—The Director of the Office of Management and Budget shall notify Congress 6 months prior to the date that the provisions of, and amendments made by, this Act will be superseded pursuant to subsection (a).

SA 995. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IV, add the following:

SEC. ___. ELIMINATION OF LIMITATION ON WORK GEOGRAPHIC ADJUSTMENT UNDER THE PHYSICIAN FEE SCHEDULE.

Section 1848(e)(1)(A)(iii) (42 U.S.C. 1395w–4(e)(1)(A)(iii)) is amended by inserting ''(or, for purposes of payment for services furnished on or after January 1, 2005, and before January 1, 2008, 100 percent)'' after ''¼''.

SA 996. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

In section 445(a) of the bill, strike paragraph (6) and insert the following:

''(6) an evaluation of the appropriateness of extending such adjustment or making such adjustment permanent;

''(7) an evaluation of the adjustment of the work geographic practice cost index required under section 1848(e)(1)(A)(iii) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(A)(iii)) to reflect ¼ of the area cost difference in physician work;

''(8) an evaluation of the effect of the adjustment described in paragraph (7) on physician location and retention in higher than average cost-of-living areas, taking into account difference in recruitment costs and retention rates for physicians, including specialists; and

''(9) an evaluation of the appropriateness of the ¼ adjustment for the work geographic practice cost index.''.

SA 997. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 401, between lines 4 and 5, insert the following:

''(C) EDUCATION AND OUTREACH CAMPAIGN.—

''(i) PROGRAM REQUIREMENTS.—

''(I) IN GENERAL.—The Office of Beneficiary Assistance, in collaboration with the Administrator of the Center for Medicare & Medicaid Services, shall conduct education and outreach programs that are designed to inform hard to reach populations, minority populations, and rural and frontier populations, about the medicare program, and particularly about the medicare fee-for-service program under parts A and B, and the prescription drug benefit established under part D and the plan options under that part, including the low-income subsidies provided under section 1860D–19.

''(II) DISSEMINATION.—Programs conducted under clause (i) shall produce and disseminate information in major languages, and shall conduct other outreach activities, including mailings and low-income subsidy enrollment assistance, in coordination with other appropriate Federal and State agencies.

''(III) SITES.—Outreach and enrollment assistance activities shall be conducted under such programs at sites that provide, determine eligibility for, or enroll, low-income individuals under other Federal, State, or local assistance programs, including such sites operated under Federal, State, or local low-income housing, energy, nutrition, health, and social services programs.

''(IV) COSTS.—The Administrator of the Center for Medicare Choices shall reimburse other Federal, State, and local agencies for the expenses such agencies incur that are attributable to providing coordination with the education and outreach programs conducted under this subparagraph. The Secretary shall determine the appropriate administrative expenses that are to be allocated between the Center for Medicare Choices and the Centers for Medicare & Medicaid Services as a result of the collaboration required under this clause.

''(ii) MODEL FORM.—

''(I) IN GENERAL.—The Office of Beneficiary Assistance, in coordination and cooperation with the Administrator of the Center for Medicare & Medicaid Services, shall devise a model application form for the premium and cost-sharing subsidies established under section 1860D–19 and shall make such form available for use by the States.

''(II) REQUIREMENTS.—The model form devised under subclause (I) shall be as simple as possible, shall be designed so that the form is capable of being completed without a face-to-face interview and of being filed electronically, and shall apply for multiyear periods, with beneficiaries required to report any disqualifying increases in income or assets to the Administrator of the Center for Medicare Choices.

SA 998. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 129, strike lines 3 through 20, and insert the following:

''(2) AMOUNT OF PAYMENT.—The amount of the payment under paragraph (1) shall be an amount equal to the monthly national average premium for the year (determined under section 1860D–15), as adjusted using the risk adjusters that apply to the standard prescription drug coverage published under section 1860D–11.

SA 999. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 389, between lines 6 and 7, insert the following:

SEC. ___. PRIORITY AREA QUALITY INDICATORS.

(a) IN GENERAL.—The Director of the Agency for Healthcare Research and Quality, in consultation with the Quality Interagency Coordination Task Force, the Institute of Medicine, the Joint Commission on Accreditation of Healthcare Organizations, the National Committee for Quality Assurance, the American Health Quality Association, the

National Quality Forum, and other individuals and organizations determined appropriate by the Secretary of Health and Human Services, shall assemble, evaluate, and, where necessary, develop or update quality indicators for each of the 20 priority areas for improvement in health care quality as identified by the Institute of Medicine in their report entitled ''Priority Areas for National Action'' in 2003, in order to assist medicare beneficiaries in making informed choices about health plans. The selection of appropriate quality indicators under this subsection shall include the evaluation criteria formulated by clinical professionals, consumers, data collection experts.

(b) RISK ADJUSTMENT.—In developing the quality indicators under subsection (a), the Director of the Agency for Healthcare Research and Quality shall ensure that adequate risk adjustment is provided for.

(c) BEST PRACTICES.—In carrying out this section, the Director of the Agency for Healthcare Research and Quality shall—

(1) assess data concerning appropriate clinical treatments based on the best scientific evidence available;

(2) determine areas in which there is insufficient evidence to determine best practices; and

(3) compare existing quality indicators to best clinical practices, validate appropriate indicators, and report on areas where additional research is needed before indicators can be developed.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall—

(1) submit to the Director of the National Institutes of Health a report concerning areas of clinical care requiring farther research necessary to establish effective clinical treatments that will serve as a basis for quality indicators; and

(2) submit to Congress a report on the state of quality measurement for priority areas that links data to the report submitted under paragraph (1) for the year involved.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $12,000,000 for fiscal year 2004, and $8,000,000 for each of fiscal years 2005 through 2009.

SEC. ___. STANDARDIZED QUALITY INDICATORS FOR FEDERAL AGENCIES.

(a) IN GENERAL.—In addition to other activities to be carried out by the Quality Interagency Coordination Taskforce (as established by executive order on March 13, 1998), such Taskforce shall standardize indicators of health care quality that are used in all Federal agencies, as appropriate.

(b) CONSULTATION.—In carrying out subsection (a), the Quality Interagency Coordination Taskforce shall consult with a public-private consensus organization (such as the National Quality Forum) to enhance the likelihood of the simultaneous application of the standardized indicators under subsection (a) in the private sector.

(c) REPORT.—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 progress made by the Quality Interagency Coordination Taskforce to standardizing quality indicators throughout the Federal Government.

SEC. ___. DEMONSTRATION PROGRAM FOR COMMUNITY HEALTH CARE QUALITY DATA REPORTING.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention and the Director of the Agency for Healthcare Quality and Research, shall award not to exceed 20 grants to eligible communities for the establishment of demonstration programs for the reporting of health care quality information at the community level.

(b) QUALITY INDICATORS.—

(1) IN GENERAL.—For purposes of reporting information under the demonstration programs under this section, indicators of health care quality may include the indicators developed for the 20 priority areas as identified by the Institute of Medicine in the report entitled ''Priority Areas for National Action'', 2003, or other indicators determined appropriate by the Secretary of Health and Human Services.

(2) TYPE OF DATA.—All quality indicators with respect to which reporting will be carried out under the demonstration program shall be reported by race, ethnicity, gender, and age.

(c) ELIGIBILITY.—The Secretary of Health and Human Services shall award grants to communities under this section based on competitive proposals and criteria to be determined jointly by the Director of the Centers for Disease Control and Prevention and the Director of the Agency for Healthcare Research and Quality. Such criteria may include a demonstrated ability of the community to collect data on quality indicators and a demonstrated ability to effectively transmit community-level health status results to relevant stakeholders.

(d) TECHNICAL ADVISORY COMMITTEE.—The Secretary of Health and Human Services shall establish a technical advisory committee to assist grantees in data collection, data analysis, and report dissemination.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director of the Centers for Disease Control and Prevention and the Director of the Agency for Healthcare Research and Quality shall—

(1) submit to the Congress a report on the results of the demonstration programs under this section; and

(2) make such reports publicly available, including by posting the reports on the Internet.

(f) EVALUATION.—The Secretary of Health and Human Services shall, upon awarding grants under subsection (a), enter into a contract for the evaluation of demonstration programs under this section. Such evaluation shall compare the effectiveness of such demonstration programs in collecting and reporting required data, and on the effectiveness of distributing information to key stakeholders in a timely fashion. Such evaluations shall provide for a report on best practices.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 2004, and such sums as may be necessary for each fiscal year thereafter.

SA 1000. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

SEC. ___. STUDY ON EFFECTIVENESS OF CERTAIN PRESCRIPTION DRUGS.

(a) IN GENERAL.—

(1) RESEARCH BY NIH.—The Director of the National Institutes of Health, in coordination with the Director of the Agency for Healthcare Research and Quality and the Commissioner of Food and Drugs, shall conduct research, which may include clinical research, to develop valid scientific evidence regarding the comparative effectiveness and, where appropriate, comparative safety of covered prescription drugs relative to other drugs and treatments for the same disease or condition.

(2) ANALYSIS BY AHRQ.—

(A) IN GENERAL.—The Director of the Agency for Healthcare Research and Quality, taking into consideration the research and data from the National Institutes of Health and the Food and Drug Administration, shall use evidence-based practice centers to synthesize available data or conduct other analyses of the comparative effectiveness and, where appropriate, comparative safety of covered prescription drugs relative to other drugs and treatments for the same disease or condition.

(B) SAFETY.—In any analysis of comparative effectiveness under this subparagraph, the Director of the Agency for Healthcare Research and Quality shall include a discussion of available information on relative safety.

(3) STANDARDS.—The Director of the Agency for Healthcare Research and Quality, in consultation with the Commissioner of Food and Drugs, the Director of the National Institutes of Health, and with input from stakeholders, shall develop standards for the design and conduct of studies under this subsection.

(b) COVERED PRESCRIPTION DRUGS.—For purposes of this section, the term ''covered prescription drugs'' means prescription drugs that, as determined by the Director of the Agency for Healthcare Research and Quality in consultation with the Administrator of the Centers for Medicare & Medicaid Services, account for high levels of expenditures, high levels of use, or high levels of risk to individuals in federally funded health programs, including Medicare and Medicaid.

(c) DISSEMINATION.—

(1) ANNUAL REPORT.—Each year the Secretary shall prepare a report on the results of the research, studies, and analyses conducted by the National Institutes of Health and the Agency for Healthcare Research and Quality, and the Food and Drug Administration under this section and submit the report to the following:

(A) Congress.

(B) The Secretary of Defense.

(C) The Secretary of Veterans Affairs.

(D) The Administrator of the Centers for Medicare & Medicaid Services.

(E) The Director of the Indian Health Service.

(F) The Director of the National Institutes of Health.

(G) The Director of the Office of Personnel Management.

(H) The Commissioner of Food and Drugs.

(2) REPORTS FOR PRACTITIONERS.—As soon as possible, but not later than a year after the completion of any study pursuant to subsection (a)(2), the Director of the Agency for Healthcare Research and Quality shall—

(A) prepare a report on the results of such study for the purpose of informing health care practitioners; and

(B) transmit the report to the Director of the National Institutes of Health.

(3) FDA DRUG INFORMATION.—The Commissioner of Food and Drugs shall—

(A) review all data and information from studies and analyses conducted or prepared under this section; and

(B) develop appropriate summaries of such information for inclusion in adequate directions for use under section 502(f)(1) of the Federal Food, Drug, and Cosmetic Act and in summaries relating to side effects, contraindications, and effectiveness under section 502(n) of that Act.

(4) NIH INTERNET SITE.—The Director of the National Institutes of Health shall publish on the Institutes' Internet site and through other means that will facilitate access by practitioners, each report prepared under this subsection by the Director of the Agency for Healthcare Research and Quality.

(d) EVIDENCE.—In carrying out this section, the Director of the National Institutes of Health and the Agency for Healthcare Research and Quality shall consider only methodologically sound studies, giving preference to studies for which the Directors have access to sufficient underlying data and analysis to address any significant concerns about methodology or the reliability of data.

(e) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $75,000,000 for fiscal year 2004, and such sums as may be necessary for each fiscal year thereafter.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 160, 204, 205, 241, 243, 244, and 245. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

AIR FORCE

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be major general

BRIGADIER GENERAL JOHN B. HANDY, 0000
BRIGADIER GENERAL MARVIN S. MAYES, 0000
BRIGADIER GENERAL DOUGLAS R. MOORE, 0000
BRIGADIER GENERAL RICHARD L. TESTA, 0000

To be brigadier general

COLONEL JOSEPH G. BALSKUS, 0000
COLONEL BOBBY L. BRITTAN, 0000
COLONEL THOMAS J. DEARDORFF, 0000
COLONEL MICHAEL P. HICKEY, 0000
COLONEL CHARLES V. ICKES, II, 0000
COLONEL WILLIAM B. JERNIGAN, 0000
COLONEL HENRY C. MORROW, 0000
COLONEL DONALD J. QUENNEVILLE, 0000
COLONEL DANIEL R. SCACE, 0000
COLONEL TIMOTHY W. SCOTT, 0000
COLONEL EUGENE A. SEVI, 0000
COLONEL DARRYLL D.M. WONG, 0000

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN W. ROSA, JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8069:

To be major general

BRIG. GEN. BARBARA C. BRANNON, 0000

DEPARTMENT OF HOMELAND SECURITY

FRANK LIBUTTI, OF NEW YORK, TO BE UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION, DEPARTMENT OF HOMELAND SECURITY.

COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) DUNCAN C. SMITH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) SALLY BRICE-O'HARA, 0000
REAR ADM. (LH) HARVEY E. JOHNSON, 0000
REAR ADM. (LH) DAVID W. KUNKEL, 0000
REAR ADM. (LH) DAVID B. PETERMAN, 0000

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

MARY ANN C. GOSLING, 0000

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

TRAUMA CARE SYSTEMS PLANNING AND DEVELOPMENT ACT OF 2003

Mr. GRASSLEY. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 123, S. 239.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 239) to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 239) was read the third time and passed, as follows:

S. 239

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 ''Trauma Care Systems Planning and Development Act of 2003''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Federal Government and State governments have established a history of cooperation in the development, implementation, and monitoring of integrated, comprehensive systems for the provision of emergency medical services.

(2) Trauma is the leading cause of death of Americans between the ages of 1 and 44 years and is the third leading cause of death in the general population of the United States.

(3) In 1995, the total direct and indirect cost of traumatic injury in the United States was estimated at $260,000,000,000.

(4) There are 40,000 fatalities and 5,000,000 nonfatal injuries each year from motor vehicle-related trauma, resulting in an aggregate annual cost of $230,000,000,000 in medical expenses, insurance, lost wages, and property damage.

(5) Barriers to the receipt of prompt and appropriate emergency medical services exist in many areas of the United States.

(6) The number of deaths from trauma can be reduced by improving the systems for the provision of emergency medical services in the United States.

(7) Trauma care systems are an important part of the emergency preparedness system needed for homeland defense.

SEC. 3. AMENDMENTS.

(a) ESTABLISHMENT.—Section 1201 of the Public Health Service Act (42 U.S.C. 300d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting '', acting through the Administrator of the Health Resources and Services Administration,'' after ''Secretary'';

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following:

''(3) collect, compile, and disseminate information on the achievements of, and problems experienced by, State and local agencies and private entities in providing trauma care and emergency medical services and, in so doing, give special consideration to the unique needs of rural areas;'';

(D) in paragraph (4), as redesignated by subparagraph (B)—

(i) by inserting ''to enhance each State's capability to develop, implement, and sustain the trauma care component of each State's plan for the provision of emergency medical services'' after ''assistance''; and

(ii) by striking ''and'' after the semicolon;

(E) in paragraph (5), as redesignated by subparagraph (B), by striking the period at the end and inserting ''; and''; and

(F) by adding at the end the following:

''(6) promote the collection and categorization of trauma data in a consistent and standardized manner.'';

(2) in subsection (b), by inserting '', acting through the Administrator of the Health Resources and Services Administration,'' after ''Secretary''; and

(3) by striking subsection (c).

(b) CLEARINGHOUSE ON TRAUMA CARE AND EMERGENCY MEDICAL SERVICES.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by striking section 1202; and

(2) by redesignating section 1203 as section 1202.

(c) ESTABLISHMENT OF PROGRAMS FOR IMPROVING TRAUMA CARE IN RURAL AREAS.—Section 1202(a) of the Public Health Service Act, as such section was redesignated by subsection (b), is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by inserting '', such as advanced trauma life support,'' after ''model curricula'';

(2) in paragraph (4), by striking ''and'' after the semicolon;

(3) in paragraph (5), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(6) by increasing communication and coordination with State trauma systems.''.

(d) REQUIREMENT OF MATCHING FUNDS FOR FISCAL YEARS SUBSEQUENT TO FIRST FISCAL YEAR OF PAYMENTS.—Section 1212 of the Public Health Service Act (42 U.S.C. 300d–12) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking ''and'' after the semicolon; and

(B) by striking subparagraph (B) and inserting the following:

''(B) for the third fiscal year of such payments to the State, not less than $1 for each $1 of Federal funds provided in such payments for such fiscal year;

''(C) for the fourth fiscal year of such payments to the State, not less than $2 for each $1 of Federal funds provided in such payments for such fiscal year; and

''(D) for the fifth fiscal year of such payments to the State, not less than $2 for each

$1 of Federal funds provided in such payments for such fiscal year.''; and

(2) in subsection (b)—

(A) in paragraph (1), by adding ''and'' after the semicolon;

(B) in paragraph (2), by striking ''; and'' and inserting a period; and

(C) by striking paragraph (3).

(e) REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF ALLOTMENTS.—Section 1213 of the Public Health Service Act (42 U.S.C. 300d–13) is amended—

(1) in subsection (a)—

(A) in paragraph (3), in the matter preceding subparagraph (A), by inserting ''nationally recognized'' after ''contains'';

(B) in paragraph (5), by inserting ''nationally recognized'' after ''contains'';

(C) in paragraph (6), by striking ''specifies procedures for the evaluation of designated'' and inserting ''utilizes a program with procedures for the evaluation of'';

(D) in paragraph (7)—

(i) in the matter preceding subparagraph (A), by inserting ''in accordance with data collection requirements developed in consultation with surgical, medical, and nursing specialty groups, State and local emergency medical services directors, and other trained professionals in trauma care'' after ''collection of data'';

(ii) in subparagraph (A), by inserting ''and the number of deaths from trauma'' after ''trauma patients''; and

(iii) in subparagraph (F), by inserting ''and the outcomes of such patients'' after ''for such transfer'';

(E) by redesignating paragraphs (10) and (11) as paragraphs (11) and (12), respectively; and

(F) by inserting after paragraph (9) the following:

''(10) coordinates planning for trauma systems with State disaster emergency planning and bioterrorism hospital preparedness planning;'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''concerning such'' and inserting ''that outline resources for optimal care of the injured patient''; and

(ii) in subparagraph (D), by striking ''1992'' and inserting ''2004''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''1991'' and inserting ''2004''; and

(ii) in subparagraph (B), by striking ''1992'' and inserting ''2004''; and

(3) in subsection (c), by striking ''1990, the Secretary shall develop a model plan'' and inserting ''2003, the Secretary shall update the model plan''.

(f) REQUIREMENT OF SUBMISSION TO SECRETARY OF TRAUMA PLAN AND CERTAIN INFORMATION.—Section 1214(a) of the Public Health Service Act (42 U.S.C. 300d–14(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''1991'' and inserting ''2004''; and

(B) by inserting ''that includes changes and improvements made and plans to address deficiencies identified'' after ''medical services''; and

(2) in paragraph (2), by striking ''1991'' and inserting ''2004''.

(g) RESTRICTIONS ON USE OF PAYMENTS.—Section 1215(a)(1) of the Public Health Service Act (42 U.S.C. 300d–15(a)(1)) is amended by striking the period at the end and inserting a semicolon.

(h) REQUIREMENTS OF REPORTS BY STATES.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by striking section 1216 and inserting the following:

''SEC. 1216. [RESERVED].''.

(i) REPORT BY THE SECRETARY.—Section 1222 of the Public Health Service Act (42 U.S.C. 300d–22) is amended by striking ''1995'' and inserting ''2006''.

(j) FUNDING.—Section 1232(a) of the Public Health Service Act (42 U.S.C. 300d–32(a)) is amended to read as follows:

''(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out parts A and B, there are authorized to be appropriated $12,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.''.

(k) CONFORMING AMENDMENT.—Section 1232(b)(2) of the Public Health Service Act (42 U.S.C. 300d–32(b)(2)) is amended by striking ''1204'' and inserting ''1202''.

(l) INSTITUTE OF MEDICINE STUDY.—Part E of title XII of the Public Health Service Act (20 U.S.C. 300d–51 et seq.) is amended—

(1) by striking the part heading and inserting the following:

''PART E—MISCELLANEOUS PROGRAMS'';

and

(2) by adding at the end the following:

''SEC. 1254. INSTITUTE OF MEDICINE STUDY.

''(a) IN GENERAL.—The Secretary shall enter into a contract with the Institute of Medicine of the National Academy of Sciences, or another appropriate entity, to conduct a study on the state of trauma care and trauma research.

''(b) CONTENT.—The study conducted under subsection (a) shall—

''(1) examine and evaluate the state of trauma care and trauma systems research (including the role of Federal entities in trauma research) on the date of enactment of this section, and identify trauma research priorities;

''(2) examine and evaluate the clinical effectiveness of trauma care and the impact of trauma care on patient outcomes, with special attention to high-risk groups, such as children, the elderly, and individuals in rural areas;

''(3) examine and evaluate trauma systems development and identify obstacles that prevent or hinder the effectiveness of trauma systems and trauma systems development;

''(4) examine and evaluate alternative strategies for the organization, financing, and delivery of trauma care within an overall systems approach; and

''(5) examine and evaluate the role of trauma systems and trauma centers in preparedness for mass casualties.

''(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the appropriate committees of Congress a report containing the results of the study conducted under this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000 for each of fiscal years 2004 and 2005.''.

(m) RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE.—Section 1251(c) of the Public Health Service Act (42 U.S.C. 300d–51(c)) is amended by striking ''1993 through 1995'' and inserting ''2004 through 2008''.

(n) STATE GRANTS FOR PROJECTS REGARDING TRAUMATIC BRAIN INJURY.—Section 1252 of the Public Health Service Act (42 U.S.C. 300d–52) is amended in the section heading by striking ''**DEMONSTRATION**''.

(o) INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.—Section 1261 of the Public Health Service Act (42 U.S.C. 300d–61) is amended—

(1) in subsection (a), by striking ''conducting basic'' and all that follows through the period at the end of the second sentence and inserting ''basic and clinical research on trauma (in this section referred to as the 'Program'), including the prevention, diagnosis, treatment, and rehabilitation of trauma-related injuries.'';

(2) by striking subsection (b) and inserting the following:

''(b) PLAN FOR PROGRAM.—The Director shall establish and implement a plan for carrying out the activities of the Program, taking into consideration the recommendations contained within the report of the NIH Trauma Research Task Force. The plan shall be periodically reviewed, and revised as appropriate.'';

(3) in subsection (d)—

(A) in paragraph (4)(B), by striking ''acute head injury'' and inserting ''traumatic brain injury''; and

(B) in subparagraph (D), by striking ''head'' and inserting ''traumatic'';

(4) by striking subsection (g);

(5) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively; and

(6) in subsection (h), as redesignated by paragraph (5), by striking ''2001 through 2005'' and inserting ''2004 through 2008''.

NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE ACT

Mr. GRASSLEY. I ask unanimous consent that the Rules Committee be discharged from further consideration of S. 1157 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1157) to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1157) was read the third time and passed, as follows:

S. 1157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Museum of African American History and Culture Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) since its founding, the United States has grown into a symbol of democracy and freedom around the world, and the legacy of African Americans is rooted in the very fabric of the democracy and freedom of the United States;

(2) there exists no national museum within the Smithsonian Institution located on the National Mall that—

(A) is devoted to the documentation of African American life, art, history, and culture; and

(B) encompasses, on a national level—

(i) the period of slavery;

(ii) the era of reconstruction;

(iii) the Harlem renaissance;

(iv) the civil rights movement; and

(v) other periods associated with African American life, art, history, and culture; and

(3) a National Museum of African American History and Culture would be dedicated to the collection, preservation, research, and exhibition of African American historical and cultural material reflecting the breadth and depth of the experiences of individuals of African descent living in the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD OF REGENTS.—The term ''Board of Regents'' means the Board of Regents of the Smithsonian Institution.

(2) COUNCIL.—The term ''Council'' means the National Museum of African American History and Culture Council established by section 5.

(3) MUSEUM.—The term ''Museum'' means the National Museum of African American History and Culture established by section 4.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Smithsonian Institution.

SEC. 4. ESTABLISHMENT OF MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a museum to be known as the ''National Museum of African American History and Culture''.

(b) PURPOSE.—The purpose of the Museum shall be to provide for—

(1) the collection, study, and establishment of programs relating to African American life, art, history, and culture that encompass—

(A) the period of slavery;

(B) the era of reconstruction;

(C) the Harlem renaissance;

(D) the civil rights movement; and

(E) other periods of the African American diaspora;

(2) the creation and maintenance of permanent and temporary exhibits documenting the history of slavery in America and African American life, art, history, and culture during the periods referred to in paragraph (1);

(3) the collection and study of artifacts and documents relating to African American life, art, history, and culture; and

(4) collaboration between the Museum and other museums, historically black colleges and universities, historical societies, educational institutions, and other organizations that promote the study or appreciation of African American life, art, history, or culture, including collaboration concerning—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections; and

(C) training of museum professionals.

SEC. 5. COUNCIL.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a council to be known as the ''National Museum of African American History and Culture Council''.

(b) DUTIES.—

(1) IN GENERAL.—The Council shall—

(A) make recommendations to the Board of Regents concerning the planning, design, and construction of the Museum;

(B) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the Museum;

(C) recommend annual operating budgets for the Museum to the Board of Regents;

(D) report annually to the Board of Regents on the acquisition, disposition, and display of objects relating to African American life, art, history, and culture; and

(E) adopt bylaws for the operation of the Council.

(2) PRINCIPAL RESPONSIBILITIES.—The Council, subject to the general policies of the Board of Regents, shall have sole authority to—

(A) purchase, accept, borrow, and otherwise acquire artifacts and other property for addition to the collections of the Museum;

(B) loan, exchange, sell, and otherwise dispose of any part of the collections of the Museum, but only if the funds generated by that disposition are used for—

(i) additions to the collections of the Museum; or

(ii) programs carried out under section 7(a); and

(C) specify criteria with respect to the use of the collections and resources of the Museum, including policies on programming, education, exhibitions, and research with respect to—

(i) the life, art, history, and culture of African Americans;

(ii) the role of African Americans in the history of the United States from the period of slavery to the present; and

(iii) the contributions of African Americans to society.

(3) OTHER RESPONSIBILITIES.—The Council, subject to the general policies of the Board of Regents, shall have authority—

(A) to provide for preservation, restoration, and maintenance of the collections of the Museum; and

(B) to solicit, accept, use, and dispose of gifts, bequests, and devises of services and property, both real and personal, for the purpose of aiding and facilitating the work of the Museum.

(c) COMPOSITION AND APPOINTMENT.—

(1) IN GENERAL.—The Council shall be composed of 19 voting members as provided under paragraph (2).

(2) VOTING MEMBERS.—The Council shall include the following voting members:

(A) The Secretary of the Smithsonian Institution.

(B) 1 member of the Board of Regents, appointed by the Board of Regents.

(C) 17 individuals appointed by the Board of Regents—

(i) taking into consideration individuals recommended by organizations and entities that are committed to the advancement of knowledge of African American life, art, history, and culture; and

(ii) taking into consideration individuals recommended by the other members of the Council.

(3) INITIAL APPOINTMENTS.—The Board of Regents shall make initial appointments to the Council under paragraph (2) not later than 180 days after the date of enactment of this Act.

(4) SPECIAL RULE FOR CERTAIN MEMBERS.—Of the total number of members of the Council appointed under subparagraph (C) of paragraph (2), not fewer than 9 shall be of African-American descent.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in this subsection, each appointed member of the Council shall be appointed for a term of 6 years.

(2) INITIAL APPOINTEES.—As designated by the Board of Regents at the time of appointment, of the voting members first appointed under subparagraph (C) of subsection (c)(2)—

(A) 6 members shall be appointed for a term of 2 years;

(B) 6 members shall be appointed for a term of 4 years; and

(C) 5 members shall be appointed for a term of 6 years.

(3) REAPPOINTMENT.—A member of the Council may be reappointed, except that no individual may serve on the Council for a total of more than 2 terms.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Council—

(i) shall not affect the powers of the Council; and

(ii) shall be filled in the same manner as the original appointment was made.

(B) TERM.—Any member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(e) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a member of the Council shall serve without pay.

(2) TRAVEL EXPENSES.—A member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Council.

(f) CHAIRPERSON.—By a majority vote of its voting members, the Council shall elect a chairperson from its members.

(g) MEETINGS.—

(1) IN GENERAL.—The Council shall meet at the call of the chairperson or on the written request of a majority of the voting members of the Council, but not fewer than twice each year.

(2) INITIAL MEETINGS.—During the 1-year period beginning on the date of the first meeting of the Council, the Council shall meet not fewer than 4 times for the purpose of carrying out the duties of the Council under this Act.

(h) QUORUM.—A majority of the voting members of the Council holding office shall constitute a quorum for the purpose of conducting business, but a lesser number may receive information on behalf of the Council.

(i) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Council may accept for the Council voluntary services provided by a member of the Council.

SEC. 6. DIRECTOR AND STAFF OF THE MUSEUM.

(a) DIRECTOR.—

(1) IN GENERAL.—The Museum shall have a Director who shall be appointed by the Secretary, taking into consideration individuals recommended by the Council.

(2) DUTIES.—The Director shall manage the Museum subject to the policies of the Board of Regents.

(b) STAFF.—The Secretary may appoint 2 additional employees to serve under the Director, except that such additional employees may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(c) PAY.—The employees appointed by the Secretary under subsection (b) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

SEC. 7. OFFICE OF EDUCATION AND LIAISON PROGRAMS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established within the Museum the Office of Education and Liaison Programs.

(2) FUNCTIONS.—The Office of Education and Liaison Programs shall—

(A) carry out educational programs relating to African American life, art, history, and culture, including—

(i) programs using digital, electronic, and interactive technologies; and

(ii) programs carried out in collaboration with elementary schools, secondary schools, and postsecondary schools; and

(B) consult with the Director of the Institute of Museum and Library Services concerning the grant and scholarship programs carried out under subsection (b).

(b) GRANT AND SCHOLARSHIP PROGRAMS.—

(1) IN GENERAL.—In consultation with the Council and the Office of Education and Liaison Programs, the Director of the Institute of Museum and Library Services shall establish—

(A) a grant program with the purpose of improving operations, care of collections, and development of professional management at African American museums;

(B) a grant program with the purpose of providing internship and fellowship opportunities at African American museums;

(C) a scholarship program with the purpose of assisting individuals who are pursuing careers or carrying out studies in the arts, humanities, and sciences in the study of African American life, art, history, and culture;

(D) in cooperation with other museums, historical societies, and educational institutions, a grant program with the purpose of promoting the understanding of modern-day practices of slavery throughout the world; and

(E) a grant program under which an African-American museum (including a nonprofit education organization the primary mission of which is to promote the study of African-American diaspora) may use the funds provided under the grant to increase an endowment fund established by the museum (or organization) as of May 1, 2003, for the purposes of—

(i) enhancing educational programming; and

(ii) maintaining and operating traveling educational exhibits.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the Institute of Museum and Library Services to carry out this subsection—

(A) $15,000,000 for fiscal year 2004; and

(B) such sums as are necessary for each fiscal year thereafter.

SEC. 8. BUILDING FOR THE NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE.

(a) IN GENERAL.—

(1) LOCATION.—

(A) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Board of Regents shall designate a site for the Museum.

(B) SITES FOR CONSIDERATION.—In designating a site under subparagraph (A), the Board of Regents shall select from among the following sites in the District of Columbia:

(i) The area bounded by Constitution Avenue, Pennsylvania Avenue, and 1st and 3rd Streets, Northwest.

(ii) The Arts and Industries Building of the Smithsonian Institution, located on the National Mall at 900 Jefferson Drive, Southwest, Washington, District of Columbia.

(iii) The area bounded by Constitution Avenue, Madison Drive, and 14th and 15th Streets, Northwest.

(iv) The site known as the ''Liberty Loan site'', located on 14th Street Southwest at the foot of the 14th Street Bridge.

(C) AVAILABILITY OF SITE.—

(i) IN GENERAL.—A site described in subparagraph (B) shall remain available until the date on which the Board of Regents designates a site for the Museum under subparagraph (A)(i).

(ii) TRANSFER TO SMITHSONIAN INSTITUTION.—Except with respect to a site described in clause (i) or (ii) of subparagraph (B), if the site designated for the Museum is in an area that is under the administrative jurisdiction of a Federal agency, as soon as practicable after the date on which the designation is made, the head of the Federal agency shall transfer to the Smithsonian Institution administrative jurisdiction over the area.

(D) CONSULTATION.—The Board of Regents shall carry out its duties under this paragraph in consultation with—

(i) the Chair of the National Capital Planning Commission;

(ii) the Chair of the Commission on Fine Arts;

(iii) the Chair and Vice Chair of the Presidential Commission referred to in section 10;

(iv) the Chair of the Building and Site Subcommittee of the Presidential Commission referred to in section 10; and

(v) the Chairman and Ranking Member of each of—

(I) the Committee on Rules and Administration of the Senate;

(II) the Committee on House Administration of the House of Representatives;

(III) the Committee on Transportation and Infrastructure of the House of Representatives;

(IV) the Committee on Appropriations of the House of Representatives; and

(V) the Committee on Appropriations of the Senate.

(2) CONSIDERATION.—The Board of Regents shall take into consideration the recommendations of the Council concerning the planning, design, and construction of the Museum.

(3) CONSTRUCTION OF BUILDING.—The Board of Regents, in consultation with the Council, may plan, design, and construct a building for the Museum, which shall be located at the site designated by the Board of Regents under this paragraph.

(b) COST SHARING.—The Board of Regents shall pay—

(1) 50 percent of the costs of carrying out this section from Federal funds; and

(2) 50 percent of the costs of carrying out this section from non-Federal sources.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 9. CONGRESSIONAL BUDGET ACT COMPLIANCE.

Authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year only to the extent provided in advance in an appropriations Act, except as provided under section 11(b).

SEC. 10. CONSIDERATION OF RECOMMENDATIONS OF PRESIDENTIAL COMMISSION.

In carrying out their duties under this Act, the Council and the Board of Regents shall take into consideration the reports and plans submitted by the National Museum of African American History and Culture Plan for Action Presidential Commission under the National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001 (Public Law 107–106).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Smithsonian Institution to carry out this Act, other than sections 7(b) and 8—

(1) $17,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each fiscal year thereafter.

(b) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

TO AUTHORIZE TESTIMONY OF DONALD JOHNSON

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 179, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 179) to authorize testimony and legal representation in the State of New Hampshire vs. Donald Johnson.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony in a criminal trespass action in the Concord District Court for the State of New Hampshire. In this action, a defendant has been charged with criminally trespassing on March 7, 2003, on the premises of Senator GREGG's concord office. The defendant refused repeated requests to leave Senator GREGG's office after it had closed for the night. The trial on this action is scheduled to be held on June 24, 2003. Pursuant to a subpoena issued on behalf of the State of New Hampshire, this resolution authorizes a staff member in Senator GREGG's office who witnessed the defendant's behavior concerning the relevant incident to testify in connection with this matter, with representation by the Senate legal counsel.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 179) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 179

Whereas, in the case of State of New Hampshire v. Donald Johnson, pending in Concord District Court for the State of New Hampshire, testimony has been requested from Carol Carpenter, a staff member in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288 c(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That Carol Carpenter is authorized to provide testimony in the case of State of New Hampshire v. Donald Johnson, except concerning matters for which a privilege should be asserted.

SEC 2. The Senate Legal Counsel is authorized to represent Carol Carpenter in connection with any testimony authorized in section one of this resolution.

ORDERS FOR TUESDAY, JUNE 24, 2003

Mr. GRASSLEY. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, June 24. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time of the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1, the prescription drugs benefit bill.

I further ask consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party lunches.

Mr. REID. Reserving the right to object, a lot of progress has been made on this Medicare bill in the past week. The two managers have done an excellent job of administering this piece of legislation. But the key part of this whole procedure is going to be the next few days. I hope the two managers who get along so well understand the difficulty on both sides. They are going to have to use maturity and skills and experience in working us through these next few days. I hope everyone understands this legislation, even though we have had some speeches talking about how good it is—since it is as good as everyone contemplated it was, I hope that no one would try to make any drastic changes to the underlying legislation. It would take away a lot of the good work and good will that has been built up.

I know the senior Senator from Iowa and the senior Senator from Montana both understand that.

Mr. GRASSLEY. Mr. President, for the benefit of the distinguished Democratic whip, I just came from a meeting with Senator BAUCUS discussing some of the issues the Senator has suggested. When I am done here serving as acting leader, I will return to that same meeting and we will try to get some of these things worked out tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. For the information of all Senators, tomorrow the Senate will resume consideration of S. 1, the prescription drug benefit bill. We currently have approximately 33 amendments pending to the bill and several Senators have expressed interest in offering additional amendments during tomorrow's session. Under the order there will be two stacked votes beginning at 11 a.m. in relation to two of these amendments. In addition, there will be a vote in relation to the Dodd amendment following the policy luncheon recess. Therefore, I inform my colleagues that rollcall votes are expected to occur throughout the day tomorrow.

For the remainder of the week, the Senate continues consideration of the prescription drug benefits bill. The leader has stated on several occasions that the Senate will complete action on this historic legislation prior to adjourning for the July 4th recess. Therefore, Members should expect rollcall votes throughout the days and into the evenings throughout this entire week. Senators are asked to make the necessary scheduling arrangements.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order, following the remarks of Senator LAUTENBERG for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES POLICY TOWARD ISRAEL

Mr. LAUTENBERG. Mr. President, I thank the Republican manager in the Chamber and my colleague, the Democratic whip, for allowing me time to speak as in morning business.

What I want to do is call attention to some incidents that have occurred recently and that were highlighted, in my view, in the New York Times, on the front page, today. I will read from parts of these articles. I want to explain the reason I am so exercised by what I see.

I ask unanimous consent that the full text of these two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 23, 2003]

AFTER MISSILE RAID ON CONVOY, U.S. HUNTS FOR HUSSEIN'S DNA

(By Douglas Jehl with Eric Schmitt)

Washington, June 22.—An American Predator drone aircraft firing Hellfire missiles destroyed a convoy last week that was believed to be carrying fugitive Iraqi leaders, and experts are trying to determine whether those killed might have included Saddam Hussein or his sons, United States government officials said today.

The officials said they had obtained intelligence indicating that senior Iraqi leaders were traveling in the convoy. They suggested that the intelligence might have come from an intercepted telephone conversation or an informant. The attack took place Wednesday near the Syrian border in western Iraq.

There was no evidence so far, the officials said, to support the idea that Mr. Hussein or his sons might have been killed in the raid, and some officials were doubtful that they were. But they said intelligence teams, including DNA experts, were at the site to review the wreckage and assess the evidence.

Officials declined to say how many people, or vehicles, were in the convoy, but they said it had been completely destroyed. If DNA evidence was the only method of determining who had been killed, it could take days to get the results.

A British newspaper, The Observer, disclosed the attack in today's issue and said it had been an attempt to kill Mr. Hussein. The Pentagon and the United States Central Command declined today to discuss that report, and American officials who agreed to discuss it on the condition of anonymity said the United states had never been certain that Mr. Hussein or his sons were in the convoy.

Still, administration officials said the strike underscored a growing belief among American intelligence officials that Mr. Hussein and his sons were not killed during the war and have remained in Iraq. The attack on the convoy showed the pressure of a stepped-up manhunt after information provided by a Hussein confidant who was detained last week.

The aide, Abid Hamid Mahmoud al-Tikriti, 46, who had served as the Iraqi leader's secretary and bodyguard, told his American interrogators that Mr. Hussein and his sons, Uday and Qusay, survived the war, and that he himself traveled to Syria after the conflict with Mr. Hussein's sons before being expelled, according to Defense Department officials who have said they have not been able to corroborate those claims.

A senior administration official said tonight that President Bush had been aware of the strike before it occurred but did not have to approve it. The official said a team was moving in to try to recover the DNA of those in the convoy, but it was unclear if they had yet arrived at the scene.

Some American officials described the attack as having been in the same category as the March 19 and April 7 attacks on compounds where Mr. Hussein and his sons were believed to be hiding. American intelligence analysts now believe that Mr. Hussein and his sons probably survived both those attacks.

A senior administration official described the intelligence that led to the Wednesday attack as a good lead. But another administration official said, ''I have no information that leads us to believe we got Saddam.'' A military officer said intelligence reports that Mr. Hussein or his sons might have been in the convoy might have been based more on hope than evidence.

''There might be people crossing their fingers, but it's just like a year ago, when they were crossing their fingers'' in the hopes of capturing Osama bin Laden, one military official said, Mr. bin Laden, Al Qaeda's leader, is still believed to be alive after 21 months in which he has been the target of an intense manhunt.

In a television interview today, King Abdullah of Jordan said he had heard reports several days ago that Mr. Hussein and his sons were in Iraq's western desert region. But he said he had heard many reports of their whereabouts in recent weeks and months and did not know if this one was accurate.

''It's like Elvis,'' King Abdullah said on the ABC News program ''this Week.'' ''There's a lot of sightings of him all over the place.''

Members of the Senate Intelligence Committee, including the chairman, Senator Pat Roberts, Republican of Kansas, said in television appearances today that they had not been informed of any new missile strike aimed at the Iraqi leader. Still, Senator Roberts, speaking on ''Fox News Sunday,'' said, ''I will not be surprised at any military action that would lead to the possibility that we have now finally killed Saddam Hussein.''

Senator John D. Rockefeller IV of West Virginia, the ranking Democrat on the committee, said on the same program that any confirmation of the death of Mr. Hussein would serve to undercut the morale of fighters who are staging hit-and-run attacks on American soldiers and at the same time instill confidence among the broader Iraqi public.

The search for Mr. Hussein has been led by Task Force 20, a secret military organization that is working closely with American intelligence agencies and whose members include

special Army and Navy counterterrorist teams.

The United States is flying U–2 spy planes and RC–135 electronic eavesdropping aircraft over Iraq on a regular basis. Both are able to scoop up electronic emissions and pinpointing locations for strike aircraft or Predator drones, which are piloted by remote control and can be either armed or unarmed; they are being flown from an air base in Iraq.

One senior administration official noted that Hellfire missile attacks on convoys by the Predators were rare and would not have been carried out except on the basis of good intelligence about an important target.

Other officials said that the United States had obtained good reconnaissance photos showing that the convoy had been destroyed, but that those photographs did not clarify who had been in the wreckage.

''Although we do have good intelligence, you don't know if you have someone until you've seen the analysis from the ground,'' said one senior American officer.

[From the New York Times, June 23, 2003]

ISRAELIS AND PALESTINIANS PRESSED TO COMPROMISE

(By Steven R. Weisman)

SHUNEH, JORDAN, June 22.—Secretary of State Colin L. Powell joined with top European, Arab and United Nations diplomats today to press for concessions in peace talks between Israel and the Palestinians, but their efforts were punctured by violence in the Gaza Strip that left four Palestinians dead.

In an illustration of the frustrations of the Middle East, diplomats here reported that before the latest deaths in Gaza, negotiators had made some progress in their talks over transferring security in most of the Gaza Strip from Israel to the Palestinian Authority. There was no telling tonight whether that progress would be set back.

The four Palestinians from the Aksa Martyrs Brigades were first said to have been killed today by Israeli tank fire, though other reports said they might have died when a bomb they were planting exploded prematurely.

The day's events lent a surreal cast to the scene here at the World Economic Forum in a resort on the Dead Sea, where more than 1,200 envoys, officials, business leaders and other conferees hailed recent progress in the Israeli-Palestinian situation even as the bitterness of that dispute coursed through countless conversations.

Coming to the end of one of his longest trips as secretary of state, Mr. Powell started in the morning by expressing mild but unmistakable criticism of Israel's killing of a top Hamas leader on Saturday night.

''I regret we had an incident that could be an impediment to progress,'' Mr. Powell said, referring to the killing of Abdullah Qawasmeh, a leading Hamas figure. ''I would much rather on a Sunday morning wake up to find that we are moving forward, and it was not necessary to have this kind of activity on either side.''

The secretary's terse reference to Israel's latest strike against suspected Palestinian terrorists marked the second time in two weeks that the United States felt compelled to criticize Israel, if only obliquely. The week before last, President Bush rebuked Israel for an attempt to kill a Hamas leader, saying it had undercut peace talks.

But the rebuke for Israel was mixed today with exhortations directed at the Palestinians by Mr. Powell and others to take action to stop attacks on Israeli soldiers and citizens so as to fortify Middle East peace efforts that have looked more promising recently than at any time in the past two and a half years.

Two diplomatic tracks were underway in Israel that were the focus of much of the discussion here on the Dead Sea. One was Israel's negotiation with the Palestinians on Gaza. The other was the Palestinian Authority's negotiations to achieve a cease-fire with Hamas.

A cease-fire with Hamas is supported by the Palestinians' leadership and by its main Arab backers, Saudi Arabia, Egypt and Jordan. All of them say they would prefer such an arrangement to a civil war between the militant groups and the shaky security forces under Mahmoud Abbas, the Palestinian prime minister.

American and Israeli officials say they are less impressed with the cease-fire talks, explaining that if there is a cease-fire, it almost certainly will have to be followed by aggressive actions by Palestinian security forces against Hamas, including arrests, forced disarmament and potential clashes.

For now, the negotiations on the Gaza Strip and the Hamas cease-fire talks, while not officially connected, appear to be intertwined, making progress on both even more difficult. Arab, European and American diplomats all say, for example, that Mr. Abbas may be waiting for a cease-fire before reaching an accord to take over the Gaza area.

On the other hand, Israel's prime minister, Ariel Sharon, may be holding up approval of a deal on the Gaza Strip until he sees how Mr. Abbas is going to handle Hamas. Some here speculate that Mr. Sharon may also be waiting to close the Gaza deal when Condoleezza Rice, President Bush's national security adviser, visits Israel late next week.

Arab diplomats attending the economic forum here assailed Israel for the killing of Mr. Qawasmeh and for its policy of pinpoint killings of militant leaders. Mr. Abbas's son said here that he thought Israel was deliberately trying to sabotage the cease-fire negotiations.

Mr. Powell, who left Washington a week ago for Cambodia and then traveled to Bangladesh before arriving here on Thursday night, made an emotional appeal for restraint by both Palestinians and Israelis at a news conference and in a speech this afternoon.

No less significant, Mr. Powell joined with Secretary General Kofi Annan of the United Nations and the foreign ministers of the European Union and Russia to sound the same theme. The four officials, sometimes referred to as the quartet, devised the staged peace plan for a Palestinian state known as the road map.

In a statement read by Mr. Annan, the four officials said they ''deplore and condemn the brutal terror attacks against Israeli citizens'' carried out by Palestinian militants, citing not only Hamas but Palestinian Islamic Jihad and Al Aksa Martyrs Brigades. ''All Palestinian individuals and groups must end acts of terror against all Israelis, anywhere,'' the group said.

But there was also tough talk directed at Israel, including ''deep concern over Israeli military actions that result in the killing of innocent Palestinians and other civilians.''

Mr. Annan, going beyond the statement, called on Israel ''not to use disproportionate force in civilian areas,'' to stop demolitions of Palestinian homes and to stop engaging in ''extra-judicial killings.''

The talk in the corridors here was about the Hamas and Gaza negotiations next door in Israel, however. A diplomat close to the negotiators said they seemed ''pretty close'' to resolving the Gaza dispute, which has centered on Israel's demand that it be allowed to maintain a security presence along the main road that runs the length of the Gaza Strip.

Israel maintains that is must keep some forces on the road both to protect Israeli settlers in several pockets of Gaza and to make sure that Hamas and other groups do not regroup and arm themselves to carry out attacks in Israel itself.

A source of surprise to many Arab and European diplomats here is the increasing evidence of the United States' willingness to make demands on Israel to take parallel actions—not only by giving up the Gaza Strip, but also by dismantling ''outposts'' of settlements and releasing prisoners.

The American demands on Israel are thought to be based on the belief that without such actions, Mr. Abbas will not have the political support to act against Hamas, diplomats say. ''The Americans are not really letting the Israelis off the hook on this,'' said a diplomat. ''We all realize that time is running out.''

Mr. LAUTENBERG. The first article from the New York Times is headlined ''After Missile Raid on Convoy, U.S. Hunts for Hussein's DNA.''

An American Predator drone aircraft firing Hellfire missiles destroyed a convoy last week that was believed to be carrying fugitive Iraqi leaders, and experts are trying to determine whether those killed might have included Saddam Hussein or his sons, United States government officials said today.

The officials said they had obtained intelligence indicating that senior Iraqi leaders were traveling in the convoy. They suggested that the intelligence might have come from an intercepted telephone conversation or an informant. The attack took place Wednesday near the Syrian border in western Iraq.

There was no evidence so far, the officials said, to support the idea that Mr. Hussein or his sons might have been killed in the raid, and some officials were doubtful that they were. But they said intelligence teams, including DNA experts, were at the site to review the wreckage and assess the evidence.

Officials declined to say how many people, or vehicles, were in the convoy, but they said it had been completely destroyed. If DNA evidence was the only method of determining who had been killed, it could take days to get the results.

The other article is printed almost side by side on the front page of the New York Times today. I read the first paragraph of the second article:

Secretary of State Colin L. Powell joined with European, Arab and United Nations diplomats today to press for concessions in peace talks between Israel and the Palestinians, but their efforts were punctured by violence in the Gaza Strip that left four Palestinians dead.

Further on:

Coming to the end of one of his longest trips as Secretary of State, Mr. Powell started in the morning by expressing mild but unmistakable criticism of Israel's killing of a top Hamas leader on Saturday night.

''I regret that we had an incident that could be an impediment to progress,'' Mr. Powell said, referring to the killing of Abdullah Qawasmeh, a leading Hamas figure. ''I would much rather on a Sunday morning wake up to find that we are moving forward, and it wasn't necessary to have this kind of activity on either side.''

The Secretary's reference to Israel's latest strike against suspected Palestinian terrorists marked the second time in 2 weeks that the United States felt compelled to criticize Israel, if only obliquely. The week before last, President Bush rebuked Israel for an attempt to kill a Hamas leader, saying it undercut peace talks.

I call attention to the two stories that appeared side by side on the front page of today's New York Times with the headlines they were carrying. I was struck by the fact that officials are still trying to determine how many people were killed in the missile attack. The U.S. military struck the convoy that they believed carried wanted terrorists. And I support that, by the way. We are still waiting for CIA and Department of Defense corroboration that, indeed, regime members rather than civilians were hit in the attack.

The other story reports, as I mentioned before, how Secretary Powell expressed mild but unmistakable criticism of Israel's killing of a top Hamas official this past Saturday.

It just so happens that this past weekend, the Israeli Defense Forces targeted a Hamas leader by the name of Abdullah Qawasmeh who masterminded the death of 52 Israelis. If this number were converted to American lives on a proportionate basis, he would have killed more than 2,400 of our citizens. How would we react to that?

There is a curious inconsistency between how this administration is conducting its global war against terrorists—which, again, I support, including operations against remnants of the Iraqi regime—and how we expect our ally, Israel, to deal with its terrorist threats.

I support a roadmap to peace, and I am pleased to see the administration live up to its responsibilities by reentering as a mediator in one of the world's most intractable conflicts. But I also believe that no peace process or roadmap will ever work when terrorists are placated or appeased. The roadmap can only go forward when all parties uniformly denounce and resist Hamas, Jihad, and the other enemies of peace.

So I believe we must support Israel in its war against terrorists and act consistently in conducting our foreign policy.

Mr. President, with that, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:42 p.m., adjourned until Tuesday, June 24, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 23, 2003:

DEPARTMENT OF HOMELAND SECURITY

FRANK LIBUTTI, OF NEW YORK, TO BE UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION, DEPARTMENT OF HOMELAND SECURITY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL JOHN B. HANDY
BRIGADIER GENERAL MARVIN S. MAYES
BRIGADIER GENERAL DOUGLAS R. MOORE
BRIGADIER GENERAL RICHARD L. TESTA

To be brigadier general

COLONEL JOSEPH G. BALSKUS
COLONEL BOBBY L. BRITTAIN
COLONEL THOMAS J. DEARDORFF
COLONEL MICHAEL P. HICKEY
COLONEL CHARLES V. ICKES II
COLONEL WILLIAM B. JERNIGAN
COLONEL HENRY C. MORROW
COLONEL DONALD J. QUENNEVILLE
COLONEL DANIEL R. SCACE
COLONEL TIMOTHY W. SCOTT
COLONEL EUGENE A. SEVI
COLONEL DARRYLL D. M. WONG

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN W. ROSA, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8069:

To be major general

BRIG. GEN. BARBARA C. BRANNON

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) DUNCAN C. SMITH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) SALLY BRICE-O'HARA
REAR ADM. (LH) HARVEY E. JOHNSON
REAR ADM. (LH) DAVID W. KUNKEL
REAR ADM. (LH) DAVID B. PETERMAN

COAST GUARD NOMINATION OF MARY ANN C. GOSLING.

EXTENSIONS OF REMARKS

TRIBUTE TO SACRAMENTO VALLEY UNION LABOR BULLETIN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. MATSUI. Mr. Speaker, I rise in tribute to the Sacramento Valley Union Labor Bulletin, one of the oldest labor newspapers on the west coast. On August 15, 2003, the Sacramento Valley Union Labor Bulletin will celebrate its 75th Anniversary with the publication of a Labor Day Special Issue. It is my honor to ask all of my colleagues to join me in saluting one of Sacramento's most trusted and important publications.

The Sacramento Central Labor Council and the Sacramento-Sierra's Building & Construction Trades Council, both AFL–CIO councils, own the Sacramento Valley Union Labor Bulletin. On September 3, 1928, under the leadership of editor Charles W. Lyons, the Sacramento Valley Union Labor Bulletin first went to press with a Labor Day issue. In the ensuing seventy-five years, the Sacramento Valley Union Labor Bulletin has enjoyed unparalleled success. It has published without interruption. Every issue of the Sacramento Valley Union Labor Bulletin is stored and available to the public at the California Room of the California State Library.

About 22 unions subscribe to the Sacramento Valley Union Labor Bulletin for their members. These unions range from service unions such as the Northern California Media Workers Guild, Bakers, Amalgamated Transit Union, Sacramento Area Fire Fighters to Building Trades Unions such as the Sheet Metal Workers, Glaziers, Plumbers, Painters, and IBEW. The great diversity in readership is a great reflection of the far-reaching importance of the Sacramento Valley Union Labor Bulletin in the Capital Region. Overall, there are 17,000 paid subscribers.

Throughout the course of its history, the Sacramento Valley Union Labor Bulletin has provided a vital forum for the expression of the messages and attitudes of the local labor community. In good times and bad, one can always look to the Sacramento Valley Union Labor Bulletin in order to discern the pulse of the labor community.

The Sacramento Valley Union Labor Bulletin has also provided Sacramento with some of its most distinguished community leaders. Former editor J.L.R. Marsh's stewardship of the bulletin was so admired that Mercy Hospital dedicated its Memorial Physical Therapy Unit in his honor. Another former editor, Richard Marriott, would go on to become one of the most beloved mayors in Sacramento history.

Mr. Speaker, as the Sacramento Valley Union Labor Bulletin celebrates its 75th Anniversary, I am honored to pay tribute to an invaluable resource to the Sacramento community. The Bulletin's commitment to the local labor community has been commendable. I ask all of my colleagues to join with me in wishing the Sacramento Valley Union Labor Bulletin continued success in all its future endeavors.

HAPPY 90TH BIRTHDAY MARGARET BUTCHER

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mrs. JONES of Ohio. Mr. Speaker, I rise today to bring recognition to Margaret Butcher, in celebration of her 90th birthday on July 25. Mrs. Butcher has been a resident of the Glenville area of Cleveland for over 50 years.

The Butcher family has been a faithful member of St. James AME church for most of that time. She and her husband, Aljah Langston Butcher, raised five children, two of whom still reside in the Cleveland area. After having her 5th child, she went back to Kent State University and obtained a Bachelor's Degree in teaching. She received her Master's from Case Western University.

During her Cleveland residency, Mrs. Butcher has held jobs with the IRS, a small boat factory and a church-based school. She taught with Cleveland City schools for approximately 30 years. Currently, she tutors young students. Margaret has volunteered for several community activities over the years, most notably, the creation of a neighborhood oral history that was eventually transcribed and placed in the Western Reserve Historical Museum.

Mrs. Butcher resides at 12800 Fairhill Rd in Shaker Heights, OH. A reception is tentatively scheduled in her honor, Saturday, July 26.

Margaret Butcher was my good neighbor, but more than that, she is my good friend. It is truly an honor to know her and it gives me great pleasure, Mr. Speaker, to celebrate her today.

COMMENDING MEDGAR WILEY EVERS AND MYRLIE EVERS-WILLIAMS, FOR THEIR LIVES AND ACCOMPLISHMENTS

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 16, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in strong support of this resolution, which commemorates and honors the lives of Medgar Evers and Myrlie Evers-Williams. These two outstanding Americans dedicated their lives to the struggle for civil rights, and Medgar Evers paid the ultimate price with his life. What makes Medgar and Myrlie even more remarkable is that they sought to change the situation, instead of letting the situation overcome them, they tried to overcome it.

The struggles that Medgar and Myrlie witnessed and endured as they attempted to integrate African-Americans into larger society are struggles that all minorities can identify and empathize with. As someone that has experienced racism, I empathize with Medgar and Myrlie's struggle, as do many Americans black, white and all colors in between.

Against extraordinary odds, they both received post-secondary educations in a racial climate that was filled with tension, and challenged a system that said that blacks were not good enough, not equal but, actually inferior to their white counterparts.

Medgar Evers, with his wife by his side, led the charge for civil rights in Mississippi for African-Americans. After the United States Supreme Court determined that segregation was unconstitutional, Medgar was the first African-American to apply to the University of Mississippi Law School but he was denied.

This denial did not deter Medgar and Myrlie from their pursuit of justice and equality. In 1954, Medgar accepted a position with the NAACP as their Mississippi Field Secretary and made Myrlie his secretary.

Together they aggressively attacked the racist societal barriers that continued to oppress African-Americans. They worked tirelessly to empower African-Americans by registering them to vote. They also organized rallies, built the NAACP's membership, and traveled around the country to educate the public, despite numerous threats.

Even though it's the 21st century, we have an obligation to remember and acknowledge the people who dedicated themselves to the fight for civil rights in our past. We owe them a debt of gratitude and a commitment to continue their efforts.

TRIBUTE TO CITY OF RANCHO CORDOVA, CALIFORNIA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. MATSUI. Mr. Speaker, I rise in tribute to the city of Rancho Cordova, California and its dedicated citizens. On July 1, 2003, Rancho Cordova will officially be incorporated and become California's newest municipality. I ask all my colleagues to join with me in wishing the city of Rancho Cordova the best of luck as it embarks on an exciting and promising future.

The modern history of Rancho Cordova began in 1846, when William Alexander Leidesdorf settled in his newly acquired 35,500-acre domain, the Rancho Rio de los Americanos. Within a few years, the massive flow of gold seekers, the FortyNiners, en route to the gold fields, would come to identify the area as Hangtown Crossing. In the 1870s, the construction of gristmills brought a new wave of residents to the area. These residents would eventually abandon the name of Hangtown Crossing for the more prosaic name of Mills Station.

In the 1950s, postal officials and local vineyard owner, Ronald S. Federspiel, met to determine a new name for the area. In the years before, a great number of homebuyers related to the name, Rancho Cordova, since it was the name of their new neighborhood. When the postal officials and Mr. Federspiel discovered that the name fit perfectly on a stamp, the name Rancho Cordova was officially adopted.

In 1950, Aerojet General Corporation, developers of rocket fuels and space engines, choose Rancho Cordova as its home base. Subsequently, Mather Air Force Base, with the only navigation and electronic warfare training wing in the U.S.; McDonnell-Douglas Aircraft, missiles and space systems test center; PMI Manufacturers, Pittsburg Des Moines Steel Co., and many smaller industries would come to call Rancho Cordova home.

In many regards, Rancho Cordova already features some of the essential traits of a well-established city. By comparison, the city's population of approximately 57,000 is bigger than Santa Cruz, Fountain Valley, or San Rafael. In the Sacramento region, the only cities with greater populations are Sacramento, Davis, Roseville, Citrus Heights, and Elk Grove. Furthermore, Rancho Cordova is already the home to an impressive and growing list of businesses; Bank of America, Aerojet Industries, MCI, and Delta Dental, just to name a few. With another 55,000 jobs projected in the next decade, Rancho Cordova is well on its way to becoming one of the most important cities in the Sacramento region.

During the nearly two-decade drive to cityhood, the community leaders and citizens of Rancho Cordova displayed remarkable dedication, determination, and civic pride in ultimately achieving their goal. Judging from its citizens overwhelming commitment to promote and serve the best interest of the city, I have every confidence that Rancho Cordova will continue to achieve and realize greater goals and ambitions in the future.

Mr. Speaker, as the city of Rancho Cordova celebrates its cityhood; I am honored to welcome this vibrant community into our growing region. Rancho Cordova's future is bright and limitless. I ask all of my colleagues to join with me in wishing the city of Rancho Cordova continued success in all its future endeavors.

TAXPAYER PROTECTION AND IRS ACCOUNT ABILITY ACT OF 2003

SPEECH OF

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. BLUMENAUER. Mr. Speaker, this is another example of the Republican leadership taking a non-controversial, bipartisan bill and adding provisions to turn it into a divisive and bitter battle. The underlying bill contains technical changes and provisions that would make it easier for taxpayers to manage the tax system. We all support these changes and this bill would pass unanimously without the games the leadership insists on playing.

Unfortunately, the games they are playing pose terrible threats to many working men and women across the country. In this instance, Republican leadership has included a provision that strikes important health insurance standards protecting workers laid-off as a result of trade-related competition.

Trade Adjustment Assistance, TAA, enacted just last year, provides for a tax credit for 65 percent of the cost of health coverage for eligible individuals and qualified family members and establishes protections designed to ensure coverage for all participants. H.R. 1528 undermines the consumer protection provisions provided in the current TAA law and would essentially allow insurers to avoid covering workers 55 and older, who are the majority of TAA participants.

The timing of this could not be worse considering the President was only recently granted Trade Promotion Authority by Congress and we are moving quickly on free trade agreements with several countries and regions around the world.

Overall, these free trade agreements will benefit our economy, but there will be sectors that will lose out to foreign competition. Knowing this, Trade Adjustment Assistance programs and benefits have been set up to help those negatively impact by free trade.

I am appalled at the Republican leadership's ability to take a productive, bipartisan bill that benefits taxpayers across the country, which the underlying bill does, and risk it all by including a provision that hurts American workers.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

SPEECH OF

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. GREEN of Texas. Madam Speaker, I rise in opposition to H.R. 660, the Small Business Health Fairness Act of 2003.

This legislation aims to make health insurance more affordable for small businesses by allowing them to band together to increase their purchasing power and negotiate lower rates for health insurance.

I know that our small businesses are struggling with their health insurance costs. With double-digit increases in premiums, Madam Speaker, many small businesses simply cannot afford to continue to provide coverage for their employees. And while I support measures to make health insurance more affordable, I have concerns that this legislation would not achieve that end. In fact, studies by both the Congressional Budget Office and RAND have indicated that existing AHPs have not reduced insurance costs for participants.

I also have concerns about this legislation because it would exempt AHPs from state insurance regulations that protect patients and families.

In Texas, health plans are required to cover maternity care, immunizations for children, mammography breast cancer screening, diabetes treatments and supplies, and certain mental health services. H.R. 660 would exempt AHPs from covering these vital services.

I don't think that small businesses and trade associations should have to sacrifice quality in order to afford their health insurance. By taking away these vital patient protections, the policies purchased under AHPs would be worth little more than the paper they are printed on.

The Kind/Andrews amendment, however, corrects many of these concerns by allowing small businesses to purchase insurance through a Small Employees Health Benefit Plan, similar to the FEHBP. This system would ensure that quality of health plans are protected, that low income employees have assistance to purchase policies, and that the smallest of small businesses get the additional assistance they need.

I urge my colleagues to support the Kind/Andrews alternative, and I yield back the balance of my time.

TRIBUTE TO NEWARK CENTRAL HIGH SCHOOL GIRLS VARSITY SOFTBALL TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. WALSH. Mr. Speaker, I rise today to honor the New York State Class B Champion Girls Varsity Softball Team from Newark Central High School. Their win was a great testament to the hard work and dedication of this team and its coaching staff.

Head Coach Mike Muscolino has a lot to be proud of, as his Lady Reds brought home not only the State title, but the Section V title and the Class B State Sportsmanship award as well. Newark High School athletic teams have always had a reputation for fair play and good sportsmanship, and this year's girls softball team was no exception. Their award adds an extra ounce of pride to their title, making their victory just that much sweeter.

On behalf of the people of the entire 25th District of New York State, I would like to congratulate the following champions on their outstanding triumph: Brandice Balschmiter, Amanda Baker, Jane Parcero, Holly Perry, Brittney Peters, Tab Pullen, Andrea Rommel, Sylina Santell, Christine Seppeler, Carrier Sheehe, Rachael Stowell, Sarah Wlodarczyk, Shelly Graham, Alex Hinckley, Karli Clingerman, Shannon Schulmerich, Corrie VanDemortel, Thaia Wheaton, as well as Head Coach Mike Muscolino and Assistant Coaches Lee Prong and Dan Pullen.

CONGRATULATING THE NCAA D–II BASEBALL CHAMPIONS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate the Central Missouri State University (CMSU) Baseball Team on their NCAA-Division II Baseball Championship.

With the leadership of Coach Brad Hill, ''MIAA Coach of the Year,'' the CMSU Mules defeated Tampa 11 to 4 in the championship game to claim its second national title. The Mules ended the season 51–7, their fourth straight season with 50 or more wins.

The Mules also were led by the dedication of its six seniors: Rob Bergin, Boomer Berry,

Eric Horner, Brandon Pugh, Brian Shewmaker, and Matt Whitney. Three members of the CMSU team made the NCAA-Division II All-Tournament Team: Zach Norman, Danny Guidry, and Danny Powers.

Mr. Speaker, this outstanding team has played a wonderful season of baseball and has made the people of Missouri proud. I know that the Members of the House will join me in congratulating them on their NCAA-Division II Baseball Championship.

CALLING ON JAPAN TO APOLOGIZE TO WOMEN FORCED INTO SEXUAL SLAVERY DURING AND PRIOR TO WORLD WAR II

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. EVANS. Mr. Speaker, today I introduce a resolution calling on Japan to issue an apology to the women and girls forced into sexual slavery during and prior to World War II.

During the war and the colonial occupation of South East Asia, Japan forced over 200,000 young women and girls, known euphemistically as ''comfort women'' by the Japanese, into military brothels. This sexual enslavement of mostly Korean and Chinese women was officially commissioned and orchestrated by the Government of Japan. Women throughout Southeast Asia were recruited by force, coercion, or deception, transported across national borders, and kept at the mercy of the Japanese military in subhuman conditions. They endured such horrific crimes as gang rape, forced abortions, sexual violence, and human trafficking.

However, the horror of this experience did not end with the cessation of hostilities. Many comfort women were killed by Japanese soldiers after Japan surrendered. In addition, some of these women had no family or homes to return to, and found themselves abandoned in hostile lands where they were viewed as collaborators. The few remaining survivors live daily with the painful memories of their enslavement, and many still suffer serious health effects as a result of violent physical and sexual abuse and sexually transmitted diseases contracted during their ordeal.

While the facts of these crimes are incontrovertible, Japan has not officially acknowledged guilt or assisted the victims. Japan has paid $1.3 billion in war reparations, yet none of it has gone to the victims of sexual enslavement and not one person has been tried for their crimes. Japan waited over 44 years to even acknowledge the use of comfort women and then only issued a very ambiguous apology. Japanese textbooks rarely mention this enslavement and extreme nationalists still deny Japan's involvement. A private fund set up to compensate comfort women is, according to the United Nations Special Rapporteur's reports, a complete denial of legal responsibility.

There are only a handful of these victims still alive. For too long, these women have had to live in silence and shame. My resolution calls for Japan to issue a clear and unambiguous apology, render state compensation to the victims, and provide historical accountability for these horrific crimes. The sexual enslavement of hundreds of thousands of women should not disappear into history without a full apology and compensation.

RECOGNITION OF MR. YASHVANT PATEL AND MATRI, INC.

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. PALLONE. Mr. Speaker, I rise today to laud the accomplishments of Mr. Yashvant Patel, and the organization he created, Matri, Inc. Mr. Patel and Matri, Inc. have created a unique and important forum where Gujarati youth can uphold their traditional values while searching for a life partner using more modern methods. This forum has been the starting ground for many happy couples, and has provided a much-needed service to America's young Gujarati people.

Mr. Patel founded Matri, Inc. in 1995 with a specific vision of a forum where Gujarati youths could uphold their traditional values while searching for a life partner. The first Matri was hosted by Anand Pragati Mandal in Kearny, NJ, and it had less than 100 attendees. In the last nine years the event has grown drastically and become a professional non-profit organization, providing annual conventions with over 300 participants.

Matri serves an important role in the unique Gujarati youth culture. Although it is a matrimonial forum, it does not force ideas of marriage but instead encourages networking and meeting with people who share similar ideas and principles, who may become lifelong friends or even marriage partners in the future. It is their belief that similarities in dharma, poshaak and khorak (religion, dress and food) are necessary to create a successful marriage. Matri allows Gujarati parents to fulfill their duty to pave the way for their children and give them a prosperous and happy life by honoring Gujarati traditions.

Matri is actually the Sanskrit term for friendship, which is a key element in any successful marriage. Since the participants are allowed to meet without the pressure of parents, the event gives them the opportunity to meet other people and develop relationships. Matri estimates that approximately 15 percent of all participants meet with success each year.

Once again, Mr. Speaker, I would like to congratulate Mr. Patel and his organization for the fine and important work they have done over the past eight years. His organization is doing an enormously important service to an important group of our nation's citizens, and we thank him for it.

ON THE RETIREMENT OF CDC OFFICIAL FRANCIE DE PESYTER

HON. W.J. "BILLY" TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. TAUZIN. Mr. Speaker, it is with great sadness and great appreciation that I rise today to commemorate the retirement of someone who has been a treasure to the United States Congress for the last 28 years.

Ms. Francie de Peyster will be retiring from the Centers for Disease Control and Prevention (CDC) on June 30, 2003, after many years of distinguished leadership and of tireless dedication to improving our Nation's public health.

Ms. de Peyster's prestigious career in public service began right here in the House of Representatives for what is now my committee, the Energy and Commerce Committee. She worked for more than five years for Representative Tim Lee Carter on the staff of the Committee on Interstate and Foreign Commerce. Following her tenure in the House, Ms. de Peyster went to work for the CDC in its Washington office in 1980. Ms. de Peyster became Deputy Director of the CDC/Washington office in 1984. In June 2001, she received the Secretary of Health and Human Services' Award for Distinguished Service. And just last year, she worked closely with my Committee as we drafted and passed into law one of the most important public health and national security initiatives in recent history—the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

Ms. de Peyster's professionalism, civility, experience, and dedication will be greatly missed by her friends and colleagues in the Senate and the House, and we will remain eternally grateful for her outstanding contributions to this Nation. I know all my colleagues would want to join me in expressing our sincerest thanks and wishes of happiness to Francie as she enters retirement.

HONORING FUTURE FOOTBALL GREAT RYAN HOAG

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. COX. Mr. Speaker, for the past 28 years, the Orange County community has given out its ''Irrelevant Week'' award to the last player selected in the National Football League draft—an award premised on the ''simple act of doing something nice for someone for no reason.''

This year's award, Irrelevant Week XXVIII, honors Ryan Hoag, a wide receiver from Gustavus Adolphus College in St. Peter, MI, who was selected 262nd in the NFL draft by the Oakland Raiders. Ryan, who checks in at 6 feet 2 inches tall and 200 pounds, caught 56 passes in the 2002 season, racking up 808 yards and 10 touchdowns. This rock-solid performance earned Ryan his second straight first-team selection to the all-Minnesota Intercollegiate Athletic Conference team—and apparently also caught the eye of scouts for the Oakland Raiders, who hope that he can make a significant contribution to their team's future success. In addition to his football skills, Ryan is clearly a tremendous all-around athlete: he was a soccer and tennis star in high school, and he also competes on his college track team, where he recently placed third in the NCAA Division III national championships for the 100–meter race, with a cheetah-fast 10.51–second dash. And when his football playing days are over, Ryan says that he hopes to follow his true passion, teaching, by becoming a kindergarten teacher.

While Ryan will surely have a lot of hard work ahead of him if he is to earn his way

onto the Oakland Raiders roster, long odds do not dampen the enthusiasm of Orange County community leaders like Paul Salata, who puts Irrelevant Week together. That is because we recognize that fame is fleeting, that humility is a virtue, and that even the last round NFL draft pick is a significantly better athlete than any member of Congress.

Today, I ask my colleagues to join with me in congratulating Ryan Hoag and everyone else who is involved in the Irrelevant Week celebration. In some ways, this celebration has outgrown its name, for I cannot think of anything more relevant to our spirit of community and our common humanity than doing nice things for other people. On behalf of the U.S. Congress and the people of Orange County whom it is my privilege to represent, congratulations to everyone associated with Irrelevant Week XXVIII, for being more relevant than you care to admit.

TRIBUTE HONORING 2003 LEGRAND SMITH SCHOLARSHIP FINALISTS

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. SMITH of Michigan. Mr. Speaker, It is a sincere pleasure to recognize the finalists of the 2003 LeGrand Smith Congressional Scholarship Program: Ashley Herlein of Spring Arbor, Michigan; Kristen Przybylski of Clinton, Michigan; Brian Jones of Battle Creek, Michigan; and Evelyn Levine of Albion, Michigan. This special honor is an appropriate tribute to the academic accomplishment, demonstration of leadership and responsibility, and commitment to social involvement displayed by these remarkable young adults. We all have reason to celebrate their success, for it is in their promising and capable hands that our future rests.

The finalists of the LeGrand Smith Congressional Scholarship Program are being honored for showing that same generosity of spirit, depth of intelligence, and capacity for human service that distinguished the late LeGrand Smith of Somerset, Michigan. They are young men and women of character, ambition, and initiative, who have already learned well the value of hard work, discipline, and commitment.

These exceptional students have consistently displayed their dedication, intelligence, and concern throughout their high school experience. They stand out among their peers due to their many achievements and the disciplined manner in which they meet challengers. While they have already accomplished a great deal, these young people possess unlimited potential, for they have learned the keys to success in any endeavor.

As a Member of Congress of the United States of America, I am proud to join their many admirers in extending our highest praise and congratulations to the finalist of the 2003 LeGrand Smith Congressional Scholarship program.

INTRODUCTION OF DC PARENTAL CHOICE INITIATIVE ACT OF 2003

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to introduce legislation, along with Education and Workforce Committee Chairman JOHN BOEHNER, that would provide relief to some of the long-standing challenges facing students in the District of Columbia public school system. The ''DC Parental Choice Initiative Act of 2003,'' H.R. 2556, would authorize the appropriation of $15 million in new Federal funding to the District of Columbia to provide individual students up to $7,500 in scholarship money to be used at private schools of their own choosing in the District of Columbia.

One thing is clear: too many kids in our Nation's capital are not getting the education they need and fully deserve. Lower-income families concerned about the quality and safety of their children in District of Columbia public schools should not have to resign to sending their children to under-performing schools where students are not adequately motivated to perform.

At the same time, a school should not take for granted that it will automatically enroll every child that lives within a given radius of the school. Instead, that school should be striving everyday to ensure that it provides a learning environment that will attract new students and parents.

Over the past decade, Congress has spent considerable time and resources working with the District to reform its education system. Enacted laws, such as the ''District of Columbia School Reform Act of 1995'' and the ''D.C. College Access Act of 1999,'' have provided an impetus to level the playing field and brighten the future for D.C. students.

However, the ability of D.C. schools to meet key performance goals has long been plagued by financial mismanagement as well as a host of other problems. Despite concerted efforts by local officials to improve the public school system, little evidence of progress in improving academic performance is available.

Poor academic achievement scores are unsettling to say the least: Only 6 percent of 4th graders in the District tested ''proficient'' or higher in math.

Standardized test scores remain stagnant for D.C. public schools: the average D.C. SAT score is 799 while the national average is 1020.

The National Assessment of Educational Process just released a ''Reading 2000'' Report Card: the District's school children were ranked as the worst readers in the country.

The disparity is too glaring to ignore. The drop out rate is about 40 percent. The current condition of schools is unacceptable.

I have traditionally opposed Federal dollars going to private schools because I think Federal dollars ought to be targeted to public schools. But, for the District, I think we have to ask this question: Wouldn't more choices funded by Federal dollars provide a needed alternative for low-income children attending low-performing schools?

As the United States Representative representing a district neighboring the District of Columbia, I have worked with the District on a number of initiatives to improve the standard of living in the District of Columbia, and along with it, the standard of living of the entire capital region. That is why I cannot ignore the grave challenges facing the District of Columbia public school system and that is why I am introducing the ''DC Parental Choice Incentive Act of 2003.''

The goal of school choice in the District of Columbia is to be an addition, not a subtraction. We all want the District's education system to improve, and this is at the very least a short-term effort to do something about it.

The bill I am introducing today, along with Chairman BOEHNER, would expand educational opportunities to D.C. students in under-performing elementary and secondary schools. The D.C. Choice Program would be established through a competitive process administered by the U.S. Department of Education to ensure that the public or private entity administering the initiative would be dedicated and capable of carrying out a top-notch program.

The D.C. Choice Program would provide scholarships of up to $7,500 to eligible students to cover the cost of tuition, fees, and transportation expenses, if any. The scholarship would be considered assistance to the students and not the schools. In order to ensure accountability, an evaluation would be conducted that would consider the impact and academic achievement attained by the program.

This legislation is the result of considerable negotiation and consultation with city officials, the Administration and the key committees of jurisdiction in Congress. And for the first time ever, the Mayor of the District of Columbia has come to the conclusion that ''. . . if done effectively, this program would provide even more choices for primarily low income families who currently do not have the same freedom of choice enjoyed by their effluent counterparts.''

I look forward to working with my colleagues on this important legislation.

HONORING THE DISTINGUISHED SERVICE OF LT. COL. STEVE GAY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding service of Lt. Col. Steve Gay, the U.S. Army Corps of Engineers Nashville district engineer and commander. His command at the Nashville district is coming to an end next month, as he will retire from the Corps.

Colonel Gay has been a tremendous asset to the Corps and its Nashville district, which covers parts of seven states and more than 59,000 square miles of the basins of the Cumberland and the Tennessee rivers. He is an invaluable leader who has performed his duties with great distinction and honor.

Colonel Gay's leadership at the Corps' Nashville district has helped make the region a better place to live through excellent management of water resources. Projects enhancing and protecting those resources have made Middle Tennessee a desirable location for

many top-notch companies, which brought with them good jobs for our residents.

Colonel Gay has served the U.S. Army Corps of Engineers well and has garnered extensive awards and decorations in the process, including the Defense Meritorious Service Medal, the Meritorious Service Medal with two oak leaf clusters, the Army Commendation Medal, the Joint Service Achievement Medal, the Army Achievement Medal with one oak leaf cluster, the Air Assault Badge, the Parachutist Badge and the Ranger Tab.

I congratulate him for all the good work he has done with the Corps and for Middle Tennessee and wish him well in his retirement and his future endeavors.

TRIBUTE TO SCOTT GILES, DEPUTY CHIEF OF STAFF, SCIENCE COMMITTEE

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. SMITH of Michigan. Mr. Speaker, I rise today in recognition of the contribution and service of Mr. Scott Giles to the United States Congress. Scott is an outstanding public servant, truly committed to effecting positive change and improving the lives of all Americans.

I have had the pleasure of knowing Scott since January 2001, when he was appointed to serve as deputy chief of staff for the House Committee on Science. And as Chairman of the Subcommittee on Research, I have had the benefit of Scott's expert advice and diverse legislative talents on a wide range of issues.

Scott's expertise on Federal research and development and education policy has been key to our Subcommittee's legislative success, and to the Science Committee's growing influence in the House of Representatives. Scott was lead staff negotiator on several pieces of legislation we successfully sheparded through the Committee, to the House floor and eventually, onto the President's desk. Most notable of these pieces of legislation were the Cybersecurity Research and Development Act (Public Law 107–305) and the National Science Foundation Authorization Act of 2002 (Public Law 107–368), which included the National Math and Science Partnerships Act and the Tech Talent Act.

But Scott's impressive career began long before he came to the Science Committee. From 1982 to 1986, he served as legislative director for his Rochester, NY hometown Representative, the Honorable Frank Horton (R–NY). In 1986, he took a job as a senior associate and team leader at Cassidy & Associates. At Cassidy he provided government and public affairs services to colleges, universities, hospitals and non-profit organizations.

After 10 years at Cassidy, Scott and his wife, Kate headed to the University of Virginia, where Scott pursued a doctorate in ethics. In 1997 he felt the lure of Congress once again when he was asked to serve on the professional staff of the Senate Committee on Health, Education, Labor, and Pensions HELP. On the HELP Committee, Scott advised the Chairman on budget, education and research policy, served as the Committee's chief staff negotiator for budget and appropriations and was a principal staff member on the National Science Foundation Authorization Act of 1998, and the Higher Education Act Amendments of 1998.

Now, Scott, Kate and their three children, Abigail, Sam and Eliza, are embarking on a new adventure. They are moving north to Vermont, where Scott has been appointed Vice President of Policy, Research and Planning for the Vermont Student Assistance Corporation. Although the students and universities in Vermont are thrilled with this move, Congress is losing a valuable, incredibly talented staff member.

On behalf of Chairman BOEHLERT and all the members and staff of the Science Committee, thank you for your service to Congress. Scott, we wish you all the best in your future.

IN HONOR OF SOLOMON NEWBORN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to a great American and a great New Yorker, Solomon Newborn, who passed away on June 16, 2003 at the age of 86, after a life dedicated to public service, his community of Plainview, the Town of Oyster Bay, his religion, and—most importantly—his family.

After growing up as the poor child of Austrian immigrants, Solomon worked his way through New York University, where he received both his Bachelor of Science in Accounting and his Master's Degree in Education.

During World War II, Sol decided to enlist in the Navy. But the Navy told him that it was no longer enlisting men, so Sol, determined to serve his country and his flag, enlisted in the Army Air Corps, the forerunner of the United States Air Force. Solomon Newborn became a decorated Captain who served valiantly in flight and in uniform fighting the Nazi regime.

Sol's dedication to the highest standards of his profession was always evident in his work. A Certified Public Accountant and recognized specialist in the fields of municipal auditing, Solomon was elected the Receiver of Taxes of the town of Oyster Bay in 1996, a position he held until 1983. He was also an author on taxation and municipal accounting, subjects he taught at Adelphi University and Queens College, my alma mater.

Sol also understood how important it was to be a part of a community. As soon as he and his wife, Rita, moved into their home in Plainview, New York, in 1953, they began to develop the idea for the Plainview Jewish Center. Sol was not only one of the founders, but the synagogue's first president. Today, The Plainview Jewish Center continues to thrive as one of the largest synagogues on Long Island. Ironically, Sol died a full half century to the day after the first planning meeting was held in the Newborn's own living room.

Solomon Newborn was the organizer of the Annual Brotherhood Conference of Plainview Service Clubs, served as Chairman of the Red Cross for Plainview and was the Senior Vice Commander of the Jewish War Veterans in Hicksville. His tireless efforts on behalf of his community and various groups have earned him the ''Man of the Year'' award from Yeshiva University and the ''Masada'' award from the United Jewish Federation.

Solomon is survived by Rita—his wife of 54 years, four children and one granddaughter: Ira, Evan, Jud, Kym and Stacey.

Solomon Newborn was the kind of man who led by his heart and always encouraged other public officials to be true to themselves. I ask my colleagues in the House of Representatives to please join me in honoring and thanking Solomon for his service to our nation and to extend to his family our deepest sympathies and condolences.

THANKING THE NATIONAL RESOURCES CONSERVATION SERVICE

HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mrs. MUSGRAVE. Mr. Speaker, I would like to thank the Natural Resources Conservation Service (NRCS), specifically Mary Miller and John Knapp of the La Junta, Co., NRCS Office for all of the wonderful work they do for rural Colorado and many of my constituents in Colorado's Fourth Congressional District.

NRCS has worked diligently to help farmers and ranchers in Eastern Colorado through this time of hardship and drought. Moreover, Mary and John have given special attention to briefing congressional staffers on many of the issues facing these farmers and ranchers. Their service to the agricultural communities of Eastern Colorado is greatly appreciated by my staff and myself.

DR. WILLIE MANLEY: AMBASSADOR OF PEACE

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. FILNER. Mr. Speaker and colleagues, I am glad to have the opportunity to recognize and congratulate Dr. Willie E. Manley as a recipient of the Ambassador of Peace Award.

I am honored to be presenting this award to Dr. Manley on Tuesday, June 24, 2003. Dr. Manley is one of 100 recipients from around the world. As the award states, it is granted to individuals who have dedicated their lives to promoting ''strong family life, interreligious cooperation, international harmony, renewal of the United Nations, a responsible public media, and the establishment of a culture of peace. Transcending racial, national and religious barriers, the Ambassadors for Peace contribute to the fulfillment of the hope of all ages; a unified world of peace wherein the spiritual and material dimensions of life are harmonized.'' Dr. Manley is certainly deserving of such an award.

Dr. Manley's life has exemplified those very values. At home, he is the loving husband of Vertis, and the dedicated father of seven children. In addition to his work at the Greater Life Baptist Church, he is a community activist: he has traveled as a missionary to South

Africa and West Africa; been a Goodwill Ambassador to Korea; and served as a past President of the NAACP San Diego Chapter. Simply by reading his résumé, one realizes that Dr. Manley is a man who is dedicated in every way to his family, to his community, to his religion and to this world. He has worked at the local level, the national level and the international level; with the government, with non-governmental organizations, and at the grassroots.

His work has focused on peace and understanding among the people of the world. He has worked to improve race relations in the San Diego area. He has also worked to promote inter-denominational and inter-religious relations in San Diego and around the world. Indeed, I can think of no better candidate for the Ambassador of Peace Award than Dr. Willie E. Manley.

THE OCCASION OF THE RETIREMENT OF CHIEF MARK MEAKER

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. OSE. Mr. Speaker, I rise today to commend Mark Meaker for his many years of dedicated service to a number of Northern California fire departments, and also to congratulate him on the occasion of his upcoming retirement.

Mark Meaker began his fire service career in 1971 as a volunteer firefighter with the Arcade Fire District. After a year with Arcade, he went to work with the Citrus Heights Fire District in 1972 and worked his way up through the ranks. Chief Meaker spent eight years as a company officer, six as a battalion chief and five years as an Operations assistant chief for the Sacramento County Fire Protection District. In that period, he played a key role in the development of their ambulance program and was incident commander on many large-scale emergency operations

Mr. Meaker became Fire Chief of the Elk Grove Community Services District Fire Department in July of 1997. Since becoming Fire Chief, the department has completed construction of three new fire stations, and is scheduled to begin construction on a $2.7 million fire training facility this spring.

Under Chief Meaker's leadership the Elk Grove CSD Fire Department has dramatically improved upon the rate at which its crews respond to emergency situations. The department now executes an emergency response time of 5 minutes or less 75 percent of the time the crew is called into action. This is a 35 percent increase, up from 40 percent in the years prior to his service. Mr. Meaker supported the improved education and motivation of line personnel, implemented an aggressive move-up policy along with restrictions on units leaving their cover areas, and aided in the construction of additional fire stations. These improvements, along with Mr. Meaker's dedication and hard work, are responsible for the dramatic improvement in the Elk Grove CSD Fire Department's emergency response time.

After six years of serving as Fire Chief for the Elk Grove Community Service District Fire Department and more than 30 years of dedicated duty to California's fire service, Mark Meaker is retiring. It is my pleasure to honor him today; his hard work and dedication will be missed.

TRIBUTE TO IRONWOOD AARP CHAPTER #556 IN CELEBRATION OF ITS 35TH YEAR OF SERVICE

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. STUPAK. Mr. Speaker, I rise today to congratulate a group of senior citizens who have kept their Ironwood American Association of Retired Persons Chapter #556 active and healthy for 35 years in Ironwood, Michigan.

Some of the charter members who were there when AARP Chapter #556 was first organized are still active members. Current Chapter President Ray Maurin presides over meetings the first Monday of every month at the Ironwood Senior Center.

Chapter #556 is involved every year in a workshop that brings Upper Peninsula AARP chapter presidents and others from Michigan AARP together, usually in the Ironwood area, to discuss legislative issues. These workshops are open to the public, are always informative and often lead to enthusiastic political discussions.

On an individual level, members of Chapter #556 this year joined forces with Lake Superior AARP Chapter #1791 to improve home safety for 52 homebound senior citizens by providing and installing home smoke detectors. This program was so popular that Grace Nurkkala, Michigan AARP Chapters Specialist, says she has a list of 25 additional seniors who have asked to be included.

Members of Chapters #556 and #1791 have also recently delivered cheerful, bright coffee mugs and live plants to brighten the lives of 52 seniors who receive home meal delivery through the Ironwood Senior Center.

As they stay active and engaged in political activity, reach out to their neighbors and join together for fellowship and action on issues important to senior citizens, the many members of Ironwood AARP Chapter #556 can be proud of their 35 year record of accomplishment on behalf of seniors.

Mr. Speaker, I hope that you and the other members of this body will join me in extending our heartiest congratulations to Ironwood AARP Chapter #556 on the 35th anniversary of its organization.

VETERANS LOSE ONE OF THEIR BEST FRIENDS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. EVANS. Mr. Speaker, on June 20 the Nation lost a dedicated public servant and its veterans and Armed Forces personnel worldwide a loyal and steadfast champion. Our colleague, former Arizona Congressman Bob Stump, whose legacy is a remarkable record of programs that will benefit active duty service men and women, National Guard and Reserve personnel, and veterans for generations to come, passed away after a lengthy illness.

I consider it a privilege to have had the opportunity to serve in the House of Representatives with this gentleman from 1987 to the day of his departure—some 14 years, the full time for which we both served as members of the House Veterans' Affairs Committee. In that time, I never encountered a more generous, more courteous, more affable, nor more resolute individual in this body. I am proud to have served as Ranking Democrat under his very capable chairmanship of the Veterans' Affairs Committee and to have worked with someone who so clearly understood and practiced true bipartisanship.

Bob was one of those all-too-rare individuals in elected office—an unassuming, behind-the-scenes workhorse who eschewed self-promotion and who knew his way and how to get there. It didn't take long for one to understand that Bob's kindly manner sometimes belied the firm hand he kept on the helm of leadership in veterans' affairs and armed services, and in the cause of his constituents.

Those who have served in uniform, and those still serving, likely will never know the full measure of what this good man gave them, but they will feel it every day in a broad range of benefits and services that bear his mark. His near half-century of contributions to his country, beginning as a combat medic in the Pacific Theater of World War II, through service in both houses of the Arizona legislature, 26 years in the U.S. House of Representatives and chairmanship of two committees, will forever be held in the same high regard as the man we came to know and appreciate.

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 Tuesday, June 24, 2003 may be found in the Daily Digest of today'sRECORD.

MEETINGS SCHEDULED

JUNE 25

9:30 a.m.

Armed Services

To hold hearings to examine the nomination of Lieutenant General John P. Abizaid, USA, for appointment to the grade of general and to be Commander, United States Central Command.

SH–216

Environment and Public Works

Fisheries, Wildlife, and Water Subcommittee

To hold oversight hearings to examine the consulting process required by Section 7 of the Endangered Species Act.

SD–406

Foreign Relations

To hold hearings to examine the implementation of the African Growth and Opportunity Act (P.L. 106–200).

SD–419

Appropriations

Labor, Health and Human Services, and Education Subcommittee

Business meeting to consider proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 2004.

SD–124

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

Governmental Affairs

To hold hearings to examine the nomination of Joshua B. Bolten, of the District of Columbia, to be Director of the Office of Management and Budget.

SD–342

Health, Education, Labor, and Pensions

Business meeting to consider S. 1248, to reauthorize the Individuals with Disabilities Education Act, and pending nominations.

SD–106

Judiciary

To hold oversight hearings to examine the Department of Justice Inspector General's Report on the 9/11 detainees.

SD–226

2 p.m.

Banking, Housing, and Urban Affairs

Economic Policy Subcommittee

To hold oversight hearings to examine certain measures to strengthen the economic situation in rural America.

SD–538

Judiciary

To hold hearings to examine the nominations of Louise W. Flanagan, to be United States District Judge for the Eastern District of North Carolina, Allyson K. Duncan, of North Carolina, to be United States Circuit Judge for the Fourth Circuit, Samuel Der-Yeghiayan, to be United States District Judge for the Northern District of Illinois, Lonny R. Suko, to be United States District Judge for the Eastern District of Washington, Earl Leroy Yeakel III, to be United States District Judge for the Western District of Texas, and Karen P. Tandy, of Virginia, to be Administrator of Drug Enforcement, and Christopher A. Wray, of Georgia, to be an Assistant Attorney General, both of the Department of Justice, and Robert C. Brack, to be United States District Judge for the District of New Mexico.

SD–215

Foreign Relations

Near Eastern and South Asian Affairs Subcommittee

Judiciary Constitution, Civil Rights and Property Rights Subcommittee

To hold joint hearings to examine constitutionalism, human rights, and the Rule of Law in Iraq.

SD–226

2:30 p.m.

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine the progress and challenges to the successor states to Pre-1991 Yugoslavia.

SD–419

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold oversight hearings to examine grazing programs of the Bureau of Land Management and the Forest Service, focusing on grazing permit renewal, BLM's potential changes to grazing regulations, range monitoring, drought, and other grazing issues.

SD–366

JUNE 26

Time to be announced

Governmental Affairs

Business meeting to consider the nominations of Judith Nan Macaluso, to be an Associate Judge of the Superior Court of the District of Columbia, Fern Flanagan Saddler, to be an Associate Judge of the Superior Court of the District of Columbia, and Joshua B. Bolten, of the District of Columbia, to be Director of the Office of Management and Budget.

Room to be announced

9 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape.

SR–328A

9:15 a.m.

Foreign Relations

Business meeting to consider S. Res. 90, expressing the sense of the Senate that the Senate strongly supports the nonproliferation programs of the United States, and the nominations of Marsha E. Barnes, of Maryland, to be Ambassador to the Republic of Suriname, Robert W. Fitts, of New Hampshire, to be Ambassador to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador to the Solomon Islands and Ambassador to the Republic of Vanuatu, John E. Herbst, of Virginia, to be Ambassador to Ukraine, Tracey Ann Jacobson, of the District of Columbia, to be Ambassador to Turkmenistan, George A. Krol, of New Jersey, to be Ambassador to the Republic of Belarus, John F. Maisto, of Pennsylvania, to be Permanent Representative of the United States to the Organization of American States, with the rank of Ambassador, Greta N. Morris, of California, to be Ambassador to the Republic of the Marshall Islands, Roger Francisco Noriega, of Kansas, to be an Assistant Secretary of State (Western Hemisphere Affairs), and William B. Wood, of New York, to be Ambassador to the Republic of Colombia.

SD–419

9:30 a.m.

Commerce, Science, and Transportation

Business meeting to consider S. 1264, to reauthorize the Federal Communications Commission, S. 1218, to provide for Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program, H.R. 1320, to amend the National Telecommunications and Information Administration Organization Act to facilitate the reallocation of spectrum from governmental to commercial users, S. 1262, to authorize appropriations for fiscal years 2004, 2005, and 2006 for certain maritime programs of the Department of Transportation, and S. 1106, to establish National Standards for Fishing Quota Systems, an original bill authorizing funds for TEA–21 programs, and pending nominations.

SR–253

Judiciary

Business meeting to consider pending calendar business.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine affiliate sharing practices in relation to the Fair Credit Reporting Act.

SD–538

Finance

To hold hearings to examine the nominations of Josette Sheeran Shiner, of Virginia, to be a Deputy United States Trade Representative, with the rank of Ambassador, and James J. Jochum, of Virginia, to be an Assistant Secretary of Commerce.

SD–215

11 a.m.

Indian Affairs

Business meeting to consider pending calendar business.

SR–485

2 p.m.

Appropriations

Business meeting to consider proposed legislation making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 2004, and proposed legislation making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004.

SD–192

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–106

Judiciary

Terrorism, Technology and Homeland Security Subcommittee

To hold hearings to examine the growing Wahhabi influence of terrorism in the United States.

SD–226

2:30 p.m.

Intelligence

To hold closed hearings to examine certain intelligence matters.

SH–219

JULY 9

10 a.m.

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act.

SD–106

JULY 16

10 a.m.

Indian Affairs

To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR–485

JULY 23

10 a.m.

Indian Affairs

To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.

SR–485

Judiciary

To hold oversight hearings to examine certain pending matters.

SD–226

JULY 30

10 a.m.

Indian Affairs

To hold hearings to examine S. 578, to amend the Homeland Security Act of 2002 to include Indian tribes among the entities consulted with respect to activities carried out by the Secretary of Homeland Security.

SR–485

POSTPONEMENTS

JUNE 25

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the nominations of Pamela Harbour, of New York, to be a Federal Trade Commissioner, and Nicole R. Nason, of Virginia, to be an Assistant Secretary of Transportation; to be followed by a hearing on Radio Ownership.

SR–253

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S8323–S8383

Measures Introduced: Six bills and two resolutions were introduced, as follows: S. 1310–1315, and S. Res. 179–180. **Pages S8357–58**

Measures Passed:

Trauma Care Systems Planning and Development Act: Senate passed S. 239, to amend the Public Health Service Act to add requirements regarding trauma care. **Pages S8377–78**

National Museum of African American History and Culture Act: Committee on Rules and Administration was discharged from further consideration of S. 1157, to establish within the Smithsonian Institution the National Museum of African American History and Culture, and the bill was then passed. **Pages S8378–80**

Senate Legal Representation: Senate agreed to S. Res. 179, to authorize testimony and legal representation in *State of New Hampshire* v. *Donald Johnson.* **Page S8380**

Prescription Drug and Medicare Improvement ACT: Senate resumed consideration of S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, taking action on the following amendments proposed thereto: **Pages S8323–56**

Withdrawn:

Bingaman Amendment No. 933, to eliminate the application of an asset test for purposes of eligibility for premium and cost-sharing subsidies for low-income beneficiaries. **Pages S8338–40, S8343–45**

Pending:

Graham (FL) Amendment No. 956, to provide that an eligible beneficiary is not responsible for paying the applicable percent of the monthly national average premium while the beneficiary is in the coverage gap and to sunset the bill. **Page S8323**

Kerry Amendment No. 958, to increase the availability of discounted prescription drugs. **Page S8323**

Lincoln Modified Amendment No. 934, to ensure coverage for syringes for the administration of insulin, and necessary medical supplies associated with the administration of insulin. **Page S8323**

Lincoln Amendment No. 935, to clarify the intent of Congress regarding an exception to the initial residency period for geriatric residency or fellowship programs. **Page S8323**

Lincoln Amendment No. 959, to establish a demonstration project for direct access to physical therapy services under the Medicare program. **Page S8323**

Baucus (for Jeffords) Amendment No. 964, to include coverage for tobacco cesssation products. **Page S8323**

Baucus (for Jeffords) Amendment No. 965, to establish a Council for Technology and Innovation. **Page S8323**

Nelson (FL) Amendment No. 938, to provide for a study and report on the propagation of concierge care. **Page S8324**

Nelson (FL) Amendment No. 936, to provide for an extension of the demonstration for ESRD managed care. **Page S8324**

Baucus (for Harkin) Amendment No. 967, to provide improved payment for certain mammography services. **Page S8324**

Baucus (for Harkin) Amendment No. 968, to restore reimbursement for total body orthotic management for nonambulatory, severely disabled nursing home residents. **Page S8324**

Baucus (for Dodd) Amendment No. 969, to permit continuous open enrollment and disenrollment in Medicare Prescription Drug plans and Medicare Advantage plans until 2008. **Page S8324**

Baucus (for Dodd) Amendment No. 970, to provide 50 percent cost-sharing for a beneficiary whose income is at least 160 percent but not more than 250 percent of the poverty line after the beneficiary has reached the initial coverage gap and before the beneficiary has reached the annual out-of-pocket limit. **Page S8324**

Baucus (for Cantwell) Amendment No. 942, to prohibit an eligible entity offering a Medicare Prescription Drug plan, a MedicareAdvantage Organization offering a MedicareAdvantage plan, and other health plans from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements. **Page S8324**

Rockefeller Amendment No. 975, to make all Medicare beneficiaries eligible for Medicare prescription drug coverage. **Pages S8324–25**

Rockefeller Amendment No. 976, to treat costs for covered drugs as incurred costs without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs. **Pages S8324–30**

Akaka Amendment No. 980, to expand assistance with coverage for legal immigrants under the Medicaid program and SCHIP to include citizens of the Freely Associated States. **Pages S8330–31**

Akaka Amendment No. 979, to ensure that current prescription drug benefits to Medicare-eligible enrollees in the Federal Employees Health Benefits Program will not be diminished. **Pages S8330–31**

Pryor Amendment No. 981, to provide equal access to competitive global prescription medicine prices for American purchasers. **Pages S8331–35, S8341–43**

Bingaman Amendment No. 984, to carve out from payments to Medicare+Choice and MedicareAdvantage organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care. **Pages S8335–36**

Bingaman Amendment No. 972, to provide reimbursement for Federally qualified health centers participating in medicare managed care. **Pages S8336–37**

Bingaman Amendment No. 973, to amend title XVIII of the Social Security Act to provide for the authorization of reimbursement for all Medicare part B services furnished by certain Indian hospitals and clinics. **Page S8337**

Baucus (for Edwards) Amendment No. 985, to strengthen protections for consumers against misleading direct-to-consumer drug advertising. **Pages S8340–41**

Baucus (for Lautenberg) Amendment No. 986, to make prescription drug coverage available beginning on July 1, 2004. **Page S8341**

Murray Amendment No. 990, to make improvements in the MedicareAdvantage benchmark determinations. **Pages S8345–47**

Harkin Amendment No. 991, to establish a demonstration project under the Medicaid program to encourage the provision of community-based services to individuals with disabilities. **Pages S8347–48**

Dayton Amendment No. 957, to provide that prescription drug benefits for any Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, may not exceed the level of prescription drug benefits passed in the 1st session of the 108th Congress. **Page S8348**

Dayton Amendment No. 960, to require a streamlining of the Medicare regulations. **Page S8348**

Dayton Amendment No. 977, to require that benefits be made available under part D on January 1, 2004. **Pages S8348–50**

Baucus (for Stabenow) Amendment No. 992, to clarify that the Medicaid statute does not prohibit a State from entering into drug rebate agreements in order to make outpatient prescription drugs accessible and affordable for residents of the State who are not otherwise eligible for medical assistance under the Medicaid program. **Page S8350**

Baucus (for Dorgan) Amendment No. 993, to amend title XVIII of the Social Security Act to provide for coverage of cardiovascular screening tests under the Medicare program. **Page S8350**

Grassley Amendment No. 974, to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs. **Pages S8351–52**

Durbin Amendment No. 994, to deliver a meaningful benefit and lower prescription drug prices. **Pages S8352–56**

A unanimous-consent agreement was reached providing that at 11 a.m., on Tuesday, June 24, 2003, Senate proceed to vote on or in relation to Rockefeller Amendment No. 976 (listed above), to be followed by a vote on or in relation to Bingaman Amendment No. 984 (listed above); and that at 2:15 p.m., Senate proceed to vote on or in relation to Baucus (for Dodd) Amendment No. 969, following 10 minutes of debate. **Page S8356**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Tuesday, June 24, 2003. **Page S8381**

Nominations Confirmed: Senate confirmed the following nominations:

Frank Libutti, of New York, to be Under Secretary for Information Analysis and Infrastructure Protection, Department of Homeland Security. (New Position)

18 Air Force nominations in the rank of general.

5 Coast Guard nominations in the rank of admiral.

A routine list in the Coast Guard. **Page S8383**

Executive Communications: **Page S8357**

Additional Cosponsors: **Pages S8358–59**

Statements on Introduced Bills/Resolutions: **Pages S8359–67**

Additional Statements: **Pages S8356–57**

Amendments Submitted: **Pages S8367–77**

Adjournment: Senate met at 2 p.m., and adjourned at 7:42 p.m., until 9:30 a.m., on Tuesday, June 24, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S8381.)

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

Measures Introduced: 12 public bills, H.R. 2556–2558, 2560–2568; and; 1 resolution, H. Con. Res. 226, were introduced. **Page H5713**

Additional Cosponsors: **Pages H5713–14**

Reports Filed: Reports were filed today as follows:

H. Res. 260, requesting the President to transmit to the House of Representatives not later 14 days after the date of the adoption of this resolution documents or other materials in the President's possession relating to Iraq's weapons of mass destruction, adverse, amended (H. Rept. 108–168);

H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004 (H. Rept. 108–169);

Report on the Revised Suballocation of Budget Allocations for Fiscal Year 2003 (H. Rept. 108–170);

Report on the Suballocation of Budget Allocations for Fiscal Year 2004 (H. Rept. 108–171);

A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (H. Rept. 108–172);

H.R. 2559, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004 (H. Rept. 108–173);

H. Res. 292, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–174); and

H. Res. 293, providing for consideration of H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004 (H. Rept. 108–175). **Page H5713**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Bishop to act as Speaker Pro Tempore for today. **Page H5667**

Recess: The House recessed at 12:33 p.m. and reconvened at 2 p.m. **Page H5667**

Recess: The House recessed at 3:06 p.m. and adjourned at 6:30 p.m. **Page H5679**

Presidential Messages: Read the following messages from the President:

Six Month Report on the National Emergency re Western Balkans: Message wherein he transmitted a 6-month report on the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001—referred to the Committee on International Relations and ordered printed (H. Doc. 108–86); and **Page H5668**

Continuation of the Western Balkans Emergency Beyond June 26, 2003: Message wherein he transmitted a notice stating that the Western Balkans emergency is to continue in effect beyond June 26, 2003—referred to the Committee on International Relations and ordered printed (H. Doc. 108–87). **Page H5668**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Expressing Sympathy for the Victims of the Earthquake that struck Algeria: H. Res. 264, expressing sympathy for the victims of the devastating earthquake that struck Algeria on May 21, 2003 (agreed to by 2/3 yea-and-nay vote of 382 yeas to 1 nay, Roll No. 297); **Pages H5668–69, H5679–80**

Commending the Democratic Elections in Kenya: 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 (agreed to by 2/3 yea-and-nay vote of 380 yeas with none voting "nay", Roll No. 298); **Pages H5669–71, H5680–81**

Commending the Signing of the United States-Adriatic Charter: H. Con. Res. 209, amended, commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia (agreed to by 2/3 yea-and-nay vote of 381 yeas to 1 nay, Roll No. 299); and **Pages H5671–73, H5681**

Family Farmer Bankruptcy Relief Act: H.R. 2465, to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted (agreed to by 2/3 yea-and-nay vote of 379 yeas to 3 nays, Roll No. 300).

Pages H5673–75, H5681–82

Suspension Proceedings Postponed—Veterans Entrepreneurship and Benefits Improvement Act: The House completed debate on the motion to suspend the rules and pass H.R. 1460, amended, to amend title 38, United States Code, to permit the use of education benefits under such title for certain entrepreneurship courses, to permit veterans enrolled in a vocational rehabilitation program under chapter 31 of such title to have self-employment as a vocational goal. Further proceedings on the motion were postponed until tomorrow. **Pages H5675–79**

Senate Messages: Message received from the Senate appears on page H5667.

Referrals: S. 504 was referred to the Committee on Education and the Workforce and S. 686 was referred to the Committee on Energy and Commerce.

Page H5711

Quorum Calls—Votes: Four yea-and-nay votes developed during the proceedings of the House today and appear on pages H5679–80, H5680–81, H5681, and H5681–82. There were no quorum calls.

Adjournment: The House met at 12:30 p.m. and adjourned at 11:58 p.m.

Committee Meetings

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS

Committee on Rules: Granted, by voice vote, an open rule providing one hour of general debate on H.R. 2555, Department of Homeland Security Appropriations for Fiscal Year 2004 equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. Under the rules of the House the bill shall be read for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with section 501 of House Concurrent Resolution 95 (prohibiting advanced appropriations) and clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Wolf, Rogers of Kentucky, Manzullo, Obey, Sabo, DeLauro, Waters, Filner, Millender-McDonald, and Baldwin.

EXTENDING SUSPENSION DAYS ON WEDNESDAY THROUGH END OF 108TH CONGRESS

Committee on Rules: Subcommittee on Technology and the House held a hearing on Extending Suspension Days on Wednesday Through the End of the 108th Congress. Testimony was heard from Representatives Dreier, Hoyer and Frank of Massachusetts.

SAME DAY CONSIDERATION OF RESOLUTION REPORTED BY THE RULES COMMITTEE RELATING TO FY 2004 INTELLIGENCE AUTHORIZATION ACT

Committee on Rules: Granted, by voice vote, a resolution waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The resolution applies the waiver to any special rule reported on the legislative day of Tuesday, June 24, 2003, providing for consideration or disposition of H.R. 2417, to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

MEMBERS OF THE BRITISH INTELLIGENCE AND SECURITY COMMITTEES

Permanent Select Committee on Intelligence: Met in executive session with Members of the British Intelligence and Security Committees.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D689)*

H.R. 1625, to designate the facility of the United States Postal Service located at 1114 Main Avenue in Clifton, New Jersey, as the "Robert P. Hammer Post Office Building". Signed on June 23, 2003. (Public Law 108–33)

S. 222, to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona. Signed on June 23, 2003. (Public Law 108–34)

S. 763, to designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse". Signed on June 23, 2003. (Public Law 108–35)

COMMITTEE MEETINGS FOR TUESDAY, JUNE 24, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: Subcommittee on Personnel, with the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, to hold joint hearings to examine support for military families, 2:30 p.m., SD–106.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine bus rapid transit and other bus service innovations, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings to examine proposals to reform the United States Olympic Committee, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine changes over time in the relationship between the Department of Energy and its predecessors and contractors operating DOE laboratories and sites to determine if these changes have affected the ability of scientists and engineers to respond to national missions, 10 a.m., SD–366.

Committee on Environment and Public Works: Subcommittee on Fisheries, Wildlife, and Water, to hold hearings to examine implementation of the National Marine Fisheries Service's 2000 Biological Opinion for listed anadromous fish regarding operation of the Federal Columbia River Power System, 9:30 a.m., SD–406.

Committee on Foreign Relations: Subcommittee on European Affairs, to hold hearings to examine U.S. relations with respect to a changing Europe, focusing on differing views on technology issues, 2:30 p.m., SD–419.

Committee on Governmental Affairs: to hold hearings to examine controlling the cost of Federal Health Programs by curing diabetes, focusing on a case study, 10 a.m., SH–216.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families, with the Committee on Armed Services, Subcommittee on Personnel, to hold joint hearings to examine support for military families, 2:30 p.m., SD–106.

Committee on the Judiciary: business meeting to resume markup of S. 1125, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and other pending calendar business, 9:30 a.m., SD-G50.

Committee on Rules and Administration: business meeting to consider pending legislative and administrative business, 9:30 a.m., SR–301.

House

Committee on Armed Services, Subcommittee on Projection Forces, hearing on the KC–767 tanker lease initiative, 2 p.m., 2118 Rayburn.

Committee on Education and the Workforce, Subcommittee on Employer-Employee Relations, hearing on "Union Democracy Reforms to the Labor-Management Reporting and Disclosure Act: H.R. 992, Union Members' Right-to-Know Act; H.R. 993, Labor-Management Accountability Act; and H.R. 994, Union Member Information Enforcement Act, 2 p.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, hearing on "Future Options for Generation of Electricity from Coal," 2 p.m., 2123 Rayburn.

Subcommittee on Oversight and Investigation, hearing on "A System Overwhelmed: The Avalanche of Imported, Counterfeit, and Unapproved Drugs into U.S.," 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, hearing entitled "Fighting Identity Theft-The Role of FCRA," 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing on "School Choice in the District of Columbia: Opening Doors for Parents and Students," 2 p.m., 2154 Rayburn.

Subcommittee on National Security, Emerging Threats and International Relations, hearing on "Emerging Threats: Assessing Nuclear Weapons Complex Facility Security," 9 a.m., 2247 Rayburn.

Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census, hearing on "Cyber Security: The Status of Information Security and the Effects of the Federal Information Security Management Act (FISMA) at Federal Agencies," 10 a.m., 2154 Rayburn.

Committee on International Relations, Subcommittee on Africa, hearing on Boosting Africa's Agricultural Trade, 2 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on "The Federal Judiciary: Is There a Need for Additional Federal Judges?" 2 p.m., 2141 Rayburn.

Subcommittee on Immigration, Border Security, and Claims, oversight hearing on "The Deadly Consequences of Illegal Alien Smuggling," 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, oversight hearing on "The Ability of Federal Lands to Meet our Energy Needs," 10 a.m., 1324 Longworth.

Subcommittee on National Parks, Recreation and Public Lands, hearing on the following bills: H.R. 1521, Johnstown Flood National Memorial Boundary Adjustment Act of 2003; H.R. 1658, Railroad Right-of-Way Conveyance Validation Act of 2003; and H.R. 2055, to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore, 2 p.m., 1334 Longworth.

Subcommittee on Water and Power, hearing on the following bills: H.R. 1794, to authorize the Secretary of the Interior to construct and rehabilitate Federal water supply lines associated with Folsom Dam in California; and H.R. 2040, to amend the Irrigation Project Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the State of Wyoming and Nebraska, 2 p.m., 1324 Longworth.

Committee on Rules, to consider H.R. 2417, Intelligence Authorization Act for Fiscal Year 2004, 2 p.m., H–313 Capitol.

Committee on Veterans' Affairs, Subcommittee on Health, to mark up the following bills: H.R. 116, Veterans' New Fitzsimons Health Care Facilities Act of 2003; H.R. 1720, Veterans Health Care Facilities Capital Improvement Act; H.R. 2357, to amend title 38,United States Code, to establish standards of access to care for veterans seeking health care from the Department of Veterans Affairs; and H.R. 2433, Health Care for Veterans of Project 112/ Project SHAD Act of 2003, 11 a.m., 334 Cannon.

Permanent Select Committee on Intelligence, Subcommittee on Terrorism and Homeland Security, executive, hearing on Terrorist Financing, 2 p.m., H–404 Capitol.

Next Meeting of the **SENATE**

9:30 a.m., Tuesday, June 24

Senate Chamber

Program for Tuesday: Senate will continue consideration of S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program and that at 11 a.m., Senate will vote on or in relation to Rockefeller Amendment No. 976 (listed above), to be followed by a vote on or in relation to Bingaman Amendment No. 984 (listed above); and that at 2:15 p.m., Senate proceed to vote on or in relation to Baucus (for Dodd) Amendment No. 969, following 10 minutes of debate.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

Next Meeting of the **HOUSE OF REPRESENTATIVES**

9 a.m., Tuesday, June 24

House Chamber

Program for Tuesday: Consideration of Suspensions:

(1) H.R. 1772, Small Business Advocacy Improvement Act;

(2) H.R. 923, Premier Certified Lenders Program Improvement Act;

(3) H.R. 1416, Homeland Security Technical Corrections Act;

Consideration of H.R. 2555, Homeland Security Appropriations Act for Fiscal Year 2004 (open rule, one hour of debate).

Extensions of Remarks, as inserted in this issue

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