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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 24, 2003.

I hereby appoint the Honorable JOHN BOOZMAN 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 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

FINISHING THE JOB FOR AMERICAN SENIORS

Mr. DELAY. Mr. Speaker, as we approach the 6 month mark for the 108th Congress, we can look back on our work with a great sense of accomplishment. Just in the last 3 weeks, the House has moved major legislation benefiting consumers, children, small businesses and working class parents. As important as these accomplishments have been, they are only part of a broader three-part agenda.

The Republican leadership of this Congress set three major objectives when we were sworn in.

We committed ourselves to do our part to support the war on terror, and through our work on the budget and the Operation Iraqi Freedom war supplemental, we have.

We committed ourselves to help get the economy started moving again, and since the House passed the President's Jobs and Growth Package, wealth has been created, losses recovered, consumer confidence has risen and jobless claims have fallen.

Finally, the Republican majority committed itself to work with the President to finally create a prescription drug benefit with Medicare.

American seniors have been waiting for Congress to act for years to finally make the Medicare program reflect 21st Century medical realities. We cannot wait on the sidelines while they are hurting financially and physically.

We must act, and this week we will. The House has twice before passed a prescription drug benefit, only to have it stalled along its way. But this time we are going to get it right and get a bill to the President's desk.

When we got here, our Nation faced three big problems: Terrorism, a sagging economy, and seniors being bankrupted by their prescription drug bills.

In response, we had three big ideas: Continuing our relentless war on terror, creating jobs and growing the economy, and adding a long overdue prescription drug benefit to Medicare.

This Republican Congress will not lose sight of the big picture, Mr. Speaker. For everything else we accomplish at the end of the day, we will be judged on how we meet these three challenges.

In the last 6 months, we have met the first two head on. It is time to do the same with the third. We have done a great deal so far, but it is time to finish the job.

MAKING AMERICA FISCALLY SECURE FOR FUTURE GENERATIONS

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized during morning hour debates for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I rise today to talk about how much debt and how much of an increased tax there is going to be placed on my 10 grandchildren and everybody else's grandchildren and children. Let me just review what we have been doing on increased spending.

Discretionary increases have averaged 6.3 percent each year since 1996 and 7.7 percent each year since budget balance was reached in 1998. By this chart, you can see the red line where we have taken off on increased spending, not just keeping up with inflation, but 6.3 percent every year, which is two and three times the rate of inflation, and, in one year, four times the rate of inflation. How big can government get? How big do we want government to be?

This week we are considering a prescription drug program. The next chart, Mr. Speaker, shows what is going to happen to the total debt of this country. The blue line is the gross Federal debt. The debt held by the public is the green line.

Actually, we have two debts in this country. First, is the amount we borrow from Social Security. In 1983, we expanded the Social Security tax, increased the FICA tax, your payroll tax for Social Security, more than ever before in the history of the country and it is still going wrong. In fact, when we started Social Security, it was 1.5 percent of payroll, and now it is 12.4 percent of payroll. Seventy percent of American workers today pay more in their payroll tax than they do in the income tax. So we have been borrowing from Social Security right along, and

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this is the purple line coming up at the bottom and increasing to $10 trillion.

Already today we have a $9 trillion unfunded liability in Social Security. That means if we invested $9 trillion today, with interest it could keep Social Security solvent for 75 years. The alternative is we continue to increase taxes on somebody, someplace, to pay promised Social Security benefits, or we cut those benefits.

Now I want to talk about what we are about to approach this week, and that is having the largest increase in entitlement programs that has been passed by this Congress in 39 years.

What happened 39 years ago? We amended the Social Security bill in 1965 to include Medicare. The original estimates of the cost of Medicare as a percent of GDP is now just a small fraction of the actual costs of Medicare. In fact, Medicare is going bankrupt. It is going broke. There is going to be less money coming into Medicare and to Social Security than what is required to pay promised benefits. So we have been doing fiscal creative accounting, using general fund money trying to keep up. But now we are adding to the costs to Medicare by adding prescription drugs.

Dr. Thomas Sowell is a senior fellow at Hoover Institute. He says, ''Why should seniors be singled out to be subsidized by taxpayers, except that their votes are being sought after by both parties?''

That was true in 1965. Both sides of the aisle decided they wanted to get more votes from seniors, so they amended Social Security to add the Medicare program. Now both sides of the aisle and the President are trying to get more votes from seniors, so we are adding a prescription drug program.

I have 10 grandchildren, Mr. Speaker. They are going to be saddled with the largest debt in history. I see our Pages in this Chamber. They are the generation at risk. Why should they be asked to pay for a senior drug program? The retireing seniors today are probably the wealthiest seniors we are going to ever see in history.

We are losing our manufacturing base. We are spreading ourselves so thin with more government spending that we are mounting a massive debt for our kids and our economy.

Grandparents; as you look at prescription drugs, I think you have got to start thinking about what we are saddling our kids with.

I would like to pose a question: Why should my kids, who are trying to save enough money for their kids to go to college, pay for prescription drugs for seniors?

Let me ask another question, and that is about my 10 grandkids. Why should we pass this large increase in entitlement programs, which is going to mean a huge debt for all grandkids to deal with?

What we are doing is increasing the debt of this country more rapidly than ever before in history. It took the first 200 years of this Congress, of this Nation, to amass a $450 billion debt, the first 200 years. And now we are having a debt increase that we are passing on to our kids that amounts to about $450 billion per year.

RECESS

The SPEAKER pro tempore. There being no further requests for morning hour debates, pursuant to clause 12(a), rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 11 minutes a.m.), the House stood in recess until 10 a.m.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PETRI) at 10 a.m.

PRAYER

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

Remember Your covenant with Your people, Lord; make us truly Your own. Instill in this Nation the promise once heard from Joshua: ''Tomorrow, the Lord will perform wonders among you.''

Strengthen the Members of the House of Representatives today as they address the problems, needs, and opportunities of tomorrow. With faith in You and in this Nation with its freedom, spontaneity, and resources, call us to move into the future.

Free us from the scenario of yesterday's fears and uncertainty. Fill us with vision and hope. Help us to build upon the solid rock of today's reality. With candor, civility, and creativity, guide the discussions that will reveal a plan for tomorrow.

By disposing ourselves, our energies, and our commitments to Your determinations, prepare us to be startled by wonders You alone can produce. From our feeble attempts, You piece together solutions to tomorrow's problems.

For in You, we place our trust, 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 Ohio (Mr. KUCINICH) come forward and lead the House in the Pledge of Allegiance.

Mr. KUCINICH 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 bills of the following titles in which the concurrence of the House is requested:

S. 239. An act to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes.

S. 1157. An act to establish the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

MEDICARE PRESCRIPTION DRUG AND MODERNIZATION REFORM ACT

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

Ms. DUNN. Mr. Speaker, later this week, we will pass a prescription drug benefit for all seniors in Medicare that is affordable and voluntary. We will protect the poorest seniors by helping pay for their drug costs immediately. By using the same principles already used by private companies, we will lower drug costs for seniors by passing along to them bigger discounts from manufacturers.

We will also strengthen Medicare for future generations by providing preventive care such as cholesterol screening and initial physical exams, and chronic care management for seniors with serious and complicated illnesses.

We can only strengthen Medicare's future if we are able to ensure access to the services that seniors need today. In this Medicare bill, we increase payments to doctors and hospitals, especially in the rural communities, so that seniors can get better health services when they are needed.

For much too long, our parents and our grandparents have paid too much for their drugs. We have an opportunity now to change this, by passing a prescription drug bill for all seniors.

WAR IN IRAQ: MANUFACTURED CATASTROPHE

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

Mr. KUCINICH. Mr. Speaker, this administration deliberately took this Nation into a war against Iraq based on false premises. Iraq had nothing to do with 9–11, with al Qaeda's role in 9–11, with the anthrax attack on this Nation; did not represent an imminent threat to the United States, had no usable weapons of mass destruction. That is why the weapons of mass destruction cannot be found.

This deception made America less secure. It cut the United States off from

the world community. It violated the U.S. Constitution, it violated the U.N. charter, it violated the Geneva Convention; and it continues to cost, because we are now losing our men and women in combat on a regular basis. We continue to lose them. It has cost the lives of countless innocent Iraqis. It has cost the taxpayers of this Nation over $100 billion, and it has cost tens of billions of dollars in damage to Iraq. It has strengthened religious fundamentalists in Iraq who now threaten the freedom of women in Iraq's society.

This manufactured catastrophe called ''foreign policy'' represents not only a failure of truth, a great credibility gap, but, more than that, America faces a crisis of legitimacy of this administration itself, which lied to the American people to get approval for a war.

ENSURE QUALITY OF CARE AND SOLVENCY OF MEDICARE

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

Mr. BURNS. Mr. Speaker, while the House is in the midst of debate that will improve Medicare for millions of seniors, we must ensure both the quality of care and the solvency of the Medicare system for all of our seniors.

Mr. Speaker, the prescription drug benefit we institute must be coupled with meaningful reforms within Medicare. We must provide meaningful prescription drug coverage and reforms to Medicare for seniors, both today and tomorrow.

APPLAUDING THE SUPREME COURT ON AFFIRMATIVE ACTION RULINGS

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

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to applaud the Supreme Court on its rulings on the University of Michigan affirmative action cases. The rulings indicate to the entire Nation that the Supreme Court believes in the basic premise behind affirmative action: to create opportunities for minorities and to eliminate discrimination.

Affirmative action programs have been successful in increasing the racial, ethnic, and gender diversity of many educational and workplace settings throughout the United States. Affirmative action has also been shown to provide a boost to the Nation's economy.

A recent study by the Educational Testing Service argued that diversity was one of the engines that drove the United States' economy. It showed that if African American and Hispanic workers were represented at colleges and universities in the same proportions as other 18- to 24-year-olds, the United States' wealth would increase by $231 billion a year, and annual tax revenues would increase by $80 billion. Why? Because it gives hope to blighted and forgotten areas of our Nation, and it improves trade and commerce worldwide.

This goes to show that by promoting adequate funding for kindergarten through twelfth grade education in underserved areas and promoting diversity in higher education in the workplace, our economy will improve.

TRIBUTE TO BOB STUMP

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

Mr. SHADEGG. Mr. Speaker, last Friday the Nation lost a distinguished public servant. Bob Stump humbly and admirably served his country and represented Arizona for nearly 60 years.

His service began as a Navy medic during World War II and continued in Arizona in the State legislature and then here in the United States House of Representatives. From his Stetson hat down to his dusty leather boots, Bob personified the independence and western congeniality of Arizona. The soft-spoken conservative was true to his beliefs and always represented his constituents with integrity and determination.

Like so many courageous young men of his time, Bob enlisted in the Navy at the age of 16, too young to legally do so, in the midst of the second world war. He was elected to Congress in 1976 and, drawing on his military experience, Bob established himself as the preeminent champion for active military personnel and veterans.

His insight and knowledge on issues landed him the chairmanship of the House Committee on Veterans Affairs in 1995, and then in 2000, the chairmanship of the House Committee on Armed Services. Even still, he never let the power go to his head. He was one of the few Congressman, indeed probably the only committee chairman, to personally answer his office telephone.

I looked to Bob Stump on so many issues. His advise was always thoughtful, solid, and consistent. He was the dean of our delegation, and I will sorely miss his leadership and friendship.

Mr. Speaker, for more than 25 years, he served this body with dignity and earned the admiration of not only myself, but of every Member of this House. He possessed the unwavering reliability and good judgment not commonly found in the politics of today.

Bob remains with us in spirit as a model of devoted service to Arizona and the Nation. He is and always will be missed.

HOUSE TO SPEND $400 BILLION FOR FLAWED PRESCRIPTION DRUG PLAN

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

Mr. DEFAZIO. Mr. Speaker, how can you spend $400 billion and not provide a decent Medicare prescription drug benefit? Well, it is an excellent question, but the Republicans have come up with a formula.

First, you underwrite the profits of the private insurance industry. Yes, there will be subsidies to the private insurance industry in this bill, trying to drive people out of Medicare; and you do that because they lost a bunch of money on crummy investments, and we have to help out their bottom line. Well, we can understand that; they are big campaign contributors.

Secondly, how else? Well, overall, number one, do nothing about the extortion it costs to prescription drugs in the United States. Do not allow the imports or the reimportation of American-manufactured drugs. Do not allow the people on Medicare to be organized into a group to drive down the price of these prescription drugs. No. Because actually, the pharmaceutical industry are bigger campaign contributors to the Republicans than the insurance industry. So we are going to spend $400 billion to provide a benefit nobody understands that is going to be pretty parsimonious.

We could do better. We could take on the pharmaceutical industry, and we can forget about giving a subsidy to the private insurance industry; and for $400 billion, we could provide a meaningful prescription drug benefit that seniors would enjoy and it would help with their health. But that is not where the majority is going in this House of Representatives.

PRESCRIPTION DRUG PLAN BURDENS FUTURE GENERATIONS

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

Mr. SMITH of Michigan. Mr. Speaker, adding prescription drugs to Medicare is one of the most unfair burdens that Congress and the President have placed on future generations in a long, long time.

I have 10 grandkids and now, for a Medicare program that is already broke, insolvent Congress is adding benefits. We are reaching into the general fund to pay for Medicare. Medicare and Social Security are going to be insolvent within the next 10 to 14 years.

Yet we are adding a new prescription drug burden to Medicare, moving into socialized medicine, and making my kids and 10 grandkids and everybody else's responsible to pay for seniors' drug prescriptions.

Actually, today's retiring seniors are probably the most wealthy and better off than any generation of Americans. Yet we are placing a burden on our kids, and young workers who are trying to save money to send their kids to college. We are placing a huge burden on my grandkids to pay off the debt. We are actually borrowing the money,

Mr. Speaker, to pay for this huge expansion in socialized medicine.

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PRESCRIPTION DRUG COVERAGE FOR SENIORS IN NEED

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

Mr. KINGSTON. Mr. Speaker, it is time to revise and reform Medicare. It is time to move us away from a government oriented, a Soviet model of socialism approach to health care for our senior citizens. We need a program that is light, a program that is solid, a program that is efficient, not one that is heavy with burdensome bureaucratic red tape.

We need to have a prescription drug benefit. We need to have one that does not just blanket us all with a brand new entitlement, one that does not necessarily worry about Ross Perots or some retiree from General Motors who already is getting it anyhow. But we need to help the widow out there who is choosing between tamoxifen for her breast cancer and rent for her home.

We want to help people stay independent. In 1965, when Medicare was conceived, the miracle drugs that are available to our seniors were not out there. They were not foreseen. Now we have drugs that enhance our life-style, that make us live longer and healthier and in less pain, and Medicare needs to adjust to this. That is what this bill is about that we will be voting on this week.

I am confident that we can take the best ideas of Democrat Party, the Republican Party, the Independents and move it out of this body, combine it with those in the other body and come up with a plan that is best for our seniors.

REMEMBERING ROBERT LEE STUMP

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

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to pay tribute to Robert Lee Stump, former Congressman from Arizona and past chairman of the House Committee on Armed Services and Committee on Veterans' Affairs who died on Friday.

First elected to Congress as a Democrat, he became a Republican after Ronald Reagan assumed the presidency in 1981. It was truly an honor to serve as a member by me on the Committee on Armed Services under Chairman Stump's leadership. He was a man dedicated to the protection of the American people and peace in the world through a powerful military.

Bob Stump knew the only way to keep our forces strong was to take care of the soldier and his family both during service and retirement. He served in the Navy during World War II as a combat medic on Luzon, Iwo Jima, and Okinawa.

America has lost a great man and a true patriot, one of the finest statesman Arizona has ever produced. In conclusion, God bless our troops.

SENSIBLE MEDICARE REFORMS

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

Mr. PENCE. Mr. Speaker, as Congress this week considers the largest expansion of Medicare in 35 years, we should begin with the understanding that Medicare has actually cost the American taxpayers 7½ times in real dollars what it was projected to cost. And while the needs for some prescription drug for some seniors is very, very real, it is important also to recall that 76 percent of seniors in America today have prescription drug coverage.

I would offer that our reforms this week should be about focusing solutions at the point of the need. Let us help our seniors near the poverty level with urgent and sufficient prescription drug coverage. Let us reform Medicare so it will be there for the future without placing an undue burden on our children and grandchildren. Let us otherwise do no harm to the private sector foundation of the greatest health care system in the history of the world.

For all these reasons I will oppose a universal drug benefit in Medicare. By agreeing to a prescription drug benefit for all seniors rather than just those in need, Congress threatens our Nation's fiscal stability, our own private prescription plans, and the survival of our free market health care system.

One more massive Federal entitlement is, simply put, a prescription for disaster.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.

SMALL BUSINESS ADVOCACY IMPROVEMENT ACT OF 2003

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1772) to improve small business advocacy, and for other purposes, as amended.

The Clerk read as follows:

H. R. 1772

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Advocacy Improvement Act of 2003''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Excessive regulations continue to burden the Nation's small businesses.

(2) Federal agencies continue to propose regulations that impose disproportionate burdens on small businesses.

(3) An independent office of small business advocacy will help to ensure that Federal agencies are responsive to small businesses and that those agencies comply with their statutory obligations with respect to small businesses.

(4) The independence of an office that acts as an advocate for small businesses is essential to ensure that it can serve as an effective advocate without being restricted by the views or policies of the Small Business Administration or any other Federal executive branch agency.

(5) To be effective an office that acts as an advocate for small businesses needs sufficient resources to conduct creditable economic studies and research which are necessary for the maintenance of small business databases and for the accurate assessment of the impact of regulations on small businesses, the role of small business in the Nation's economy, and the barriers to the growth of small businesses.

(6) The research, information, and expertise provided by an independent office of small business advocacy will be a valuable source of information and advice for Congress and Federal agencies with which the office will work on behalf of small businesses.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that there exists an entity that has the statutory independence and adequate financial resources to effectively advocate for and on behalf of small business;

(2) to require that such an entity report to the Chairmen and Ranking Members of the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate, and to the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small business concerns and the necessity for corrective action by the regulatory agency or Congress;

(3) to provide a separate authorization for appropriations for such an entity; and

(4) to strengthen the role of the Small Business and Agriculture Regulatory Enforcement Ombudsman by ensuring continued cooperation between the Ombudsman and the Office of Advocacy of the Small Business Administration.

SEC. 3. APPOINTMENT OF CHIEF COUNSEL OF ADVOCACY.

(a) IN GENERAL.—Section 201 of Public Law 94–305 (15 U.S.C. 634a) is amended—

(1) by inserting ''(a)'' before ''There is established'';

(2) by striking the second sentence; and

(3) by adding at the end the following:

''(b) The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and who should be appointed without regard to political affiliation and on the basis of fitness to perform the duties of the office.

''(c) No individual may be appointed under subsection (b) if such individual has served as an officer or employee of the Small Business Administration during the 5-year period

preceding the date of such individual's appointment.

''(d) An individual serving as Chief Counsel on the date of the expiration of any term of the President may not continue to serve as Chief Counsel for more than 1 year after such date unless such individual is reappointed after such date by the President, by and with the advice and consent of the Senate. The preceding sentence shall not apply in the case of the expiration of a term of an individual holding the office of President if such individual is elected to the office of President for a term successive to such term.''.

(b) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of the enactment of this Act shall continue to serve in that position after such date in accordance with section 201 of Public Law 94–305 (15 U.S.C. 634a), as amended by this section.

SEC. 4. PRIMARY FUNCTIONS OF OFFICE OF ADVOCACY.

Section 202 of Public Law 94–305 (15 U.S.C. 634b) is amended—

(1) in paragraph (6) by striking ''to minority enterprises'' and inserting ''to small business concerns owned and controlled by socially and economically disadvantaged individuals, to small business concerns owned and controlled by women, and to small business concerns owned and controlled by veterans'';

(2) in paragraph (7) by striking ''minority enterprises'' and inserting ''small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, and small business concerns owned and controlled by veterans'';

(3) in paragraph (8) by striking ''minority and other small business enterprises'' and inserting ''small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, small business concerns owned and controlled by veterans, and other small businesses'';

(4) in paragraph (9) by striking ''complete'' and inserting ''compete'';

(5) by striking paragraph (11);

(6) by redesignating paragraph (12) as paragraph (11);

(7) in paragraph (11) (as so redesignated)—

(A) by striking ''serviced-disabled'' and inserting ''service-disabled''; and

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

(8) by adding at the end the following:

''(12) make such recommendations and submit such reports as the Chief Counsel determines appropriate to the President, to the Chairmen and Ranking Members of the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate, and to the Administrator of the Small Business Administration, with respect to issues and regulations affecting small businesses and the necessity for corrective action by any Federal agency or by Congress.''.

SEC. 5. ADDITIONAL FUNCTIONS.

(a) IN GENERAL.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) by inserting ''(a)'' before ''The Office of Advocacy shall also perform''; and

(2) in subsection (a) (as so designated)—

(A) in paragraph (4) by striking ''and'' at the end;

(B) in paragraph (5) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(6) maintain economic databases and make the information contained therein available to the Administrator of the Small Business Administration and to Congress;

''(7) carry out the responsibilities of the Chief Counsel under chapter 6 of title 5, United States Code; and

''(8) maintain a memorandum of understanding with the Small Business and Agriculture Regulatory Enforcement Ombudsman regarding methods and procedures for cooperation between the Ombudsman and the Office of Advocacy and transmit a copy of such memorandum to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate.''.

(b) APPROPRIATION REQUEST.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is further amended by adding at the end the following:

''(b)(1) For each fiscal year, the Chief Counsel shall transmit the Office of Advocacy's appropriation estimate and request to the Office of Management and Budget, the Committee on Small Business of the House of Representatives, the Committee on Small Business and Entrepreneurship of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

''(2) Each budget of the United States Government submitted by the President shall include a separate statement of the amount of appropriations requested for the Office of Advocacy.

''(3) Each such budget shall also include a statement indicating whether the proportion of the funds requested for the Office of Advocacy when compared to the funds requested for the Small Business Administration has increased, decreased, or stayed the same relative to the proportion of the amount appropriated for the Office of Advocacy for the previous fiscal year when compared to the amount appropriated for the Small Business Administration for the previous fiscal year.''.

SEC. 6. PRINCIPAL DEPUTY CHIEF COUNSEL AND REGIONAL ADVOCATES.

Section 204 of Public Law 94–305 (15 U.S.C. 634d) is amended—

(1) by inserting ''(a)'' before ''In carrying out''; and

(2) by adding at the end the following:

''(b)(1) The Chief Counsel may appoint 1 individual to serve as Principal Deputy Chief Counsel.

''(2) The Principal Deputy Chief Counsel shall be paid at an annual rate not less than the minimum rate, nor more than the maximum rate, for the Senior Executive Service under chapter 53 of title 5, United States Code.

''(3) An individual appointed to a position under this subsection shall not be counted toward the limitation contained in subsection (a)(1) regarding the number of individuals who may be compensated at a rate in excess of the lowest rate for GS–15 of the General Schedule.

''(c) The Chief Counsel may appoint regional advocates within each Standard Federal Region as appropriate. Such regional advocates shall—

''(1) assist in examining the role of small business in the economy of the United States by identifying academic and other research institutions that focus on small business concerns and linking these research resources to research activities conducted by the Office of Advocacy;

''(2) assist in representing the views and interests of small business concerns before Federal agencies whose policies and activities may affect small business;

''(3) assist the functioning of regional small business fairness boards in coordination with the Small Business and Agriculture Regulatory Enforcement Ombudsman;

''(4) assist in enlisting the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small business concerns and the means by which small business concerns can participate in or make use of such programs and services; and

''(5) carry out such duties pursuant to the mission of the Office of Advocacy as the Chief Counsel may assign.''.

SEC. 7. OVERHEAD AND ADMINISTRATIVE SUPPORT.

Section 205 of Public Law 94–305 (15 U.S.C. 634e) is amended by inserting before ''Each department'' the following:

''(a) The Administrator of the Small Business Administration shall provide the Office of Advocacy with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, communications facilities, and personnel and maintenance services as may be necessary for the operation of such offices.

''(b)''.

SEC. 8. REPORTS.

Section 206 of Public Law 94–305 (15 U.S.C. 634f) is amended by striking ''The Chief Counsel may'' and all that follows through ''on his activities.'' and inserting the following:

''(a) Not less than annually, the Chief Counsel shall submit to the President, the Committee on Small Business of the House of Representatives, the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Government Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives, and the Administrator of the Small Business Administration a report on agency compliance with chapter 6 of title 5, United States Code.

''(b) In addition to the reports required by this title, the Chief Counsel may prepare and publish such other reports as the Chief Counsel determines appropriate.

''(c)''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 207 of Public Law 94–305 (15 U.S.C. 634g) is amended by striking ''not to exceed $1,000,000'' and inserting ''$10,000,000 for fiscal years 2003 and 2004, $12,000,000 for fiscal year 2005, and $14,000,000 for fiscal year 2006''.

SEC. 10. CONFORMING AMENDMENTS.

(a) RURAL TOURISM TRAINING PROGRAM.—Section 311 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 653 note; 104 Stat. 2832) is amended by striking ''Chief Counsel for Advocacy'' and inserting ''Administrator''.

(b) SMALL BUSINESS AND AGRICULTURE REGULATORY ENFORCEMENT OMBUDSMAN.—Section 30(b)(2) of the Small Business Act (15 U.S.C. 657(b)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(F) maintain a memorandum of understanding with the Office of Advocacy regarding methods and procedures for cooperation between the Ombudsman and the Office of Advocacy.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

GENERAL LEAVE

Mr. MANZULLO. 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. 1772.

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

There was no objection.

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

Mr. Speaker, the Office of Advocacy of the Small Business Administration is unique within the executive branch. The main role of the Chief Counsel for Advocacy is to ensure that proposed regulations and policies do not unduly burden small businesses even if it means opposing part of the President's agenda. In the past, this independence has been put to the test.

The purpose of this legislation is to protect the Office of Advocacy from threats of funding cuts in order to enhance its independence. H.R. 1772 is nearly identical to legislation this House passed unanimously on May 21, 2002. In fact, H.R. 1772 is essentially a conference report agreed to with the other body last year, but unfortunately there was not enough time on the Senate floor to get this passed. The only differences between H.R. 1772 and the advocacy bill from last year is that there would be only one instead of two principal deputies at the Office of Advocacy and the rank of Chief Counsel is not elevated one level. However, the heart of this bill creating a separate budgetary line item for the Office of Advocacy is the same as last year.

To ensure that there are no games played with the Chief Counsel's budget, Congress will also get a sneak peek at the initial budget request he submits to the Office of Management and Budget before it becomes part of the President's official budget request. A separate budgetary line item is the top legislative priority for Tom Sullivan, the current Chief Counsel for the Office of Advocacy, and I am pleased to assist him in strengthening this office in moving this legislation.

I want to commend two of our subcommittee chairmen, the gentleman from Missouri (Mr. AKIN) and the gentleman from Virginia (Mr. SCHROCK) for championing this legislation on focus and other important priorities.

H.R. 1772 is one part of the overall solution to help reinvigorate our struggling small manufacturers battle unsound government regulations.

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

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

Mr. Speaker, the Office of Advocacy serves a critical role to our Nation's entrepreneurs. It is a lone voice in the executive branch making sure that our Federal agencies take a step back and consider the needs of small businesses.

By raising awareness, Advocacy ensures that our Federal government accomplishes its intended goals without unfairly burdening small businesses. Too often the needs of small businesses are forgotten in Washington and the demands of corporate America come first.

Small businesses simply do not have the resources to keep up with the complex and burdensome Federal policies that take a one-size-fits-all approach. The need for a voice for small businesses in the Federal Government is why Congress created the Office of Advocacy. Congress made sure that Advocacy could produce reports and submit views without review by OMB, the only entity within the administration that can do this.

This allows the Chief Counsel to review legislation and regulations and truly call them as he sees them. However, too often the important work of Advocacy is compromised. The unique role of Advocacy has made it a target of entities such as the Small Business Administration and the Office of Management and Budget. Over the years the Chief Counsel has had to weather the stormy relationship with these two entities as they have attempted to limit the voice of Advocacy through budget shortfalls and other measures.

Mr. Speaker, for Advocacy to be effective, it must be truly independent to carry out its duties. The Chief Counsel must be able to critique an administration's agencies without concerns that the one holding the purse can silence them.

I wish to commend the gentleman from Missouri (Mr. AKIN) and the gentleman from Virginia (Mr. SCHROCK) for their efforts in taking this difficult issue on. It is an arduous task to balance the right combination of fiscal autonomy and flexibility necessary for Advocacy to do its job effectively.

H.R. 1774 gives Advocacy a separate line item so that it is no longer subject to a SBA Administrator who designates the Chief Counsel's fund as his personal slush fund. While this is a noble attempt to address the challenges facing Advocacy, H.R. 1774 falls short. While creating a line item may limit some of the Small Business Administrator's ability to control funding, the bill creates new problems and might actually increase the ways that SBA and OMB can influence the Office of Advocacy. The proposal is going to increase the scrutiny and profile of Advocacy but offers no protections from these problems.

Under H.R. 1774, an SBA Administrator will continue to have tools to exert pressure on a Chief Counsel. Because Advocacy will remain housed in the Small Business Administration and will rely on the resources of the Administrator, SBA will have control over the operations of the Chief Counsel. Nothing in this legislation prevents the SBA from charging for such services or prevents it from offering subpar services.

This legislation also exposes Advocacy to a greater threat from OMB. In the budget process, there will be no barriers for OMB to cut funding to a Chief Counsel that is viewed as being overly critical. Under H.R. 1772, Advocacy's budget will stand on its own, thus simplifying OMB's ability to underfund its budget.

One cannot underestimate the incentives of the Office of Management and Budget to limit the voice of Advocacy. I ask, how can Advocacy be independent if one day the Chief Counsel is criticizing a President's prescription drug plan, for example, and the next day he has to request funding from the body charged with carrying out the President's agenda?

An unintended consequence of this legislation is also the negative impact that Advocacy could have on other Small Business programs. If Congress is looking to restore dollars to an underfunded Advocacy, its first target for offsets could be critical SBA programs. We must make sure that the Chief Counsel will have a fully staffed office and know that such funding is not coming at the expense of other Small Business Administration programs.

H.R. 1772 should be viewed as a starting point. As this proposal works its way through the legislative process, proper safeguards must be in place if we are to approve the final version. H.R. 1772 in its current form does not address all of the issues surrounding the independence problem. In some ways, it exposes the Chief Counsel to even greater influence. However, because of the importance of an independent Advocacy we must get this legislation moving.

I wish to thank the gentleman from Missouri (Mr. AKIN) for getting this process going and look forward to working with him and our other colleagues to make sure that we can create a more independent Office of Advocacy. As an engine behind this Nation's economy, our small businesses deserve it.

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

Mr. MANZULLO. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Missouri (Mr. AKIN), the chairman of the Subcommittee on Workforce, Empowerment and Government Programs.

Mr. AKIN. Mr. Speaker, I thank the gentleman from Illinois (Mr. MANZULLO) for allowing me to take up the Advocacy improvement bill, H.R. 1772. I would also like to thank my friend, the gentleman from Virginia (Mr. SCHROCK), for working with me on this important piece of legislation.

The Office of Advocacy is essential to the elimination of federally imposed regulations that just do not make sense. It is a government entity that exemplifies public service at its best and it is devoted to ensuring that small businesses are not encumbered by regulatory burdens that cost time and money and energy but achieve little, if anything.

The Office of Advocacy sometimes faces opposition from Federal regulatory entities that dislike having their regulations modified or questioned, and yet the office has been tireless and a key voice for small businessmen and women confronting these large agencies to prevent them from imposing unnecessary rules and regulations on small businesses and family owned companies.

The legislation before us today will give more power to the SBA's Office of Advocacy to do its vital work. H.R. 1772 will, among other things, give the Office of Advocacy its own source of funding through a line item in the Federal budget, thus giving the office a more permanent and autonomous role that makes it less susceptible to budgetary bullying from some of the folks in the executive branch that might have been offended.

Many colleagues of mine from both sides of the aisle frequently hear praises from constituents on the exemplary job of the Office of Advocacy. H.R. 1772 will ensure that that office is empowered and protected and given the tools that it needs to continue doing such a commendable job. As we strengthen the Office of Advocacy, the small business owners and entrepreneurs throughout the country will be better served. The real concerns of small business owners will be heard more clearly and addressed more readily as soon as this bill is signed into law.

Mr. Speaker, I thank the chairman for his leadership on this important issue.

Mrs. CHRISTENSEN. Mr. Speaker, I have no speaker at this time. I reserve the balance of my time.

□ 1030

Mr. MANZULLO. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Virginia (Mr. SCHROCK), the chairman of the Subcommittee on Regulatory Reform and Oversight.

Mr. SCHROCK. Mr. Speaker, I thank the gentleman from Illinois for yielding me the time.

Mr. Speaker, I rise in strong support of H.R. 1772, the Small Business Advisory Improvement Act.

The gentleman from Missouri (Mr. AKIN) and I cosponsored this legislation to strengthen an important office that supports our Nation's small businesses.

I want to start by reading a few statistics: $843 billion, that is a B, that is the annual cost of regulations to Americans; $6,975, that is the average cost per employee of regulations to small businesses; 8.2 billion hours, billion with a B, this is the annual time taken away from family and productive work to comply with Federal paperwork requirements.

I hope that everyone recognizes what a great drain on the creative resources of our entrepreneurs this burden has become. All that money and all those hours are spent on doing things that have nothing to do with creating jobs or making a better life for that citizen and his or her family. What a great waste of our natural resources.

I want to share with my colleagues another statistic: $21 billion, that is with a B, $21 billion, that is the amount of money the SBA's Office of Advocacy helped save the small businesses of this Nation last year. We should do all we can to support an office that acts as independent advocate for small business within the Federal Government, especially when this office also saves taxpayers time and money.

This savings is created by the good men and women of SBA's Office of Advocacy who work tirelessly to monitor the regulators in the other agencies of the Federal Government. They inject sensitivity to the needs and concerns of small business in every rule-making that will impact them, and they train their regulators in how to better comply with laws that Congress has put on the books, like the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act.

I know that without the Office of Advocacy and their good work, small businesses would be filling out more forms that have nothing to do with their business, paying more to comply with Federal regulations and requirements, and spending less times with their families.

I have only been the chairman of the Subcommittee on Regulatory Reform and Oversight for a short time, but in that short time I have heard from a great many small business industries. They all believe that the Office of Advocacy is doing a tremendous job in helping to save small businesses money and save them from unnecessary regulatory burdens.

From the home builders to the florists, from microbusinesses to small manufacturers, they all seem to agree that the Office of Advocacy is a necessary safeguard for small businesses; and they strongly support making the office more independent.

Unfortunately, there have been times in the Office of Advocacy's history when its independence was threatened. Since its views are completely independent of the administration which it serves, it is often at odds with that administration. One example would be the previous administration's ergonomic rules, rules that would have caused small businesses endless amounts of money. That rule-making put the Office of Advocacy squarely in opposition to a rule that was being proposed by another agency and one that the residents of the last White House supported.

It is for circumstances like that that the office must have some degree of budgetary independence from the Small Business Administration to be able to remain independent.

Additional concepts in the bill like continued cooperation with the Office of National Ombudsman and greater oversight of agency compliance with regulatory flexibility statutes are more reasons to support H.R. 1772.

Mr. Speaker, I urge my colleagues to protect the private sector of our economy from unnecessary governmental burdens by passing this bill.

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

No one disputes the accomplishments and the importance of the Office of Advocacy. Just as the role of small business is more critical during an economic downturn, so is the need for an independent Office of Advocacy. To achieve the goal of independence, it needs a delicate balancing act.

As a voice of small business, the chief counsel is often in a difficult situation because his office is a part of the same Federal Government it has been charged with monitoring, and many of these bodies within the Federal Government have incentives to limit the chief counsel's effectiveness.

In our efforts to increase independence, we need to make sure that an SBA administrator can no longer meddle in the affairs of the Office of Advocacy. The chief counsel should be able to perform his or her role without having to look over their shoulder.

Legislation must strengthen the ability of advocates to speak out against all agencies, including the Office of Management and Budget. OMB must not be able to hold funding over the head of the chief counsel as a threat to fall in line with an administration.

Finally, in our efforts to solve this problem, we must not create new ones. We do not want a situation where we are robbing Peter to pay Paul. Advocacy funding must not come at the expense of Small Business Administration programs designed to help our Nation's small businesses. To do so would be a step backward for this Nation's small business.

I am confident that because of the bipartisan nature of this debate it will allow us to fashion a solution that gives advocacy the necessary freedom to operate. Today we have started that process, and I look forward to working with our colleagues to increase the voice of small business.

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

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

This is a good bill. It advances the cause of an independent Office of Advocacy. It enhances the budget. It makes the administration, whether Republican or Democratic, more responsive to the person who occupies the Office of Advocacy; and I would urge my colleagues for a ''yes'' vote.

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

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 1772, as amended.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PREMIER CERTIFIED LENDERS PROGRAM IMPROVEMENT ACT OF 2003

Mr. MANZULLO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 923) to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve, as amended.

The Clerk read as follows:

H.R. 923

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 ''Premier Certified Lenders Program Improvement Act of 2003''.

SEC. 2. LOSS RESERVES OF PREMIER CERTIFIED LENDERS TEMPORARILY DETERMINED ON THE BASIS OF OUTSTANDING BALANCE OF DEBENTURES.

Paragraph (6) of section 508(c) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(c)) is amended—

(1) by striking ''The Administration'' and inserting the following:

''(A) IN GENERAL.—The Administration''; and

(2) by adding at the end the following new subparagraph:

''(B) TEMPORARY REDUCTION BASED ON OUTSTANDING BALANCE.—Notwithstanding subparagraph (A), during the 2-year period beginning on the date that is 90 days after the date of the enactment of this subparagraph, the Administration shall allow the certified development company to withdraw from the loss reserve such amounts as are in excess of 1 percent of the aggregate outstanding balances of debentures to which such loss reserve relates. The preceding sentence shall not apply with respect to any debenture before 100 percent of the contribution described in paragraph (4) with respect to such debenture has been made.''.

SEC. 3. ALTERNATIVE LOSS RESERVE PILOT PROGRAM FOR CERTAIN PREMIER CERTIFIED LENDERS.

(a) IN GENERAL.—Subsection (c) of section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e) is amended by adding at the end the following new paragraphs:

''(7) ALTERNATIVE LOSS RESERVE.—

''(A) ELECTION.—With respect to any eligible calendar quarter, any qualified high loss reserve PCL may elect to have the requirements of this paragraph apply in lieu of the requirements of paragraphs (2) and (4) for such quarter.

''(B) CONTRIBUTIONS.—

''(i) ORDINARY RULES INAPPLICABLE.—Except as provided under clause (ii) and paragraph (5), a qualified high loss reserve PCL that makes the election described in subparagraph (A) with respect to a calendar quarter shall not be required to make contributions to its loss reserve during such quarter.

''(ii) BASED ON LOSS.—A qualified high loss reserve PCL that makes the election described in subparagraph (A) with respect to any calendar quarter shall, before the last day of such quarter, make such contributions to its loss reserve as are necessary to ensure that the amount of the loss reserve of the PCL is—

''(I) not less than $100,000; and

''(II) sufficient, as determined by a qualified independent auditor, for the PCL to meet its obligations to protect the Federal Government from risk of loss.

''(iii) CERTIFICATION.—Before the end of any calendar quarter for which an election is in effect under subparagraph (A), the head of the PCL shall submit to the Administrator a certification that the loss reserve of the PCL is sufficient to meet such PCL's obligation to protect the Federal Government from risk of loss. Such certification shall be in such form and submitted in such manner as the Administrator may require and shall be signed by the head of such PCL and the auditor making the determination under clause (ii)(II).

''(C) DISBURSEMENTS.—

''(i) ORDINARY RULE INAPPLICABLE.—Paragraph (6) shall not apply with respect to any qualified high loss reserve PCL for any calendar quarter for which an election is in effect under subparagraph (A).

''(ii) EXCESS FUNDS.—At the end of each calendar quarter for which an election is in effect under subparagraph (A), the Administration shall allow the qualified high loss reserve PCL to withdraw from its loss reserve the excess of—

''(I) the amount of the loss reserve, over

''(II) the greater of $100,000 or the amount which is determined under subparagraph (B)(ii) to be sufficient to meet the PCL's obligation to protect the Federal Government from risk of loss.

''(D) RECONTRIBUTION.—If the requirements of this paragraph apply to a qualified high loss reserve PCL for any calendar quarter and cease to apply to such PCL for any subsequent calendar quarter, such PCL shall make a contribution to its loss reserve in such amount as the Administrator may determine provided that such amount does not exceed the amount which would result in the total amount in the loss reserve being equal to the amount which would have been in such loss reserve had this paragraph never applied to such PCL. The Administrator may require that such payment be made as a single payment or as a series of payments.

''(E) RISK MANAGEMENT.—If a qualified high loss reserve PCL fails to meet the requirement of subparagraph (F)(iii) during any period for which an election is in effect under subparagraph (A) and such failure continues for 180 days, the requirements of paragraphs (2), (4), and (6) shall apply to such PCL as of the end of such 180-day period and such PCL shall make the contribution to its loss reserve described in subparagraph (D). The Administrator may waive the requirements of this subparagraph.

''(F) QUALIFIED HIGH LOSS RESERVE PCL.—The term 'qualified high loss reserve PCL' means, with respect to any calendar year, any premier certified lender designated by the Administrator as a qualified high loss reserve PCL for such year. The Administrator shall not designate a company under the preceding sentence unless the Administrator determines that—

''(i) the amount of the loss reserve of the company is not less than $100,000;

''(ii) the company has established and is utilizing an appropriate and effective process for analyzing the risk of loss associated with its portfolio of PCLP loans and for grading each PCLP loan made by the company on the basis of the risk of loss associated with such loan; and

''(iii) the company meets or exceeds 4 or more of the specified risk management benchmarks as of the most recent assessment by the Administration or the Administration has issued a waiver with respect to the requirement of this clause.

''(G) SPECIFIED RISK MANAGEMENT BENCHMARKS.—For purposes of this paragraph, the term 'specified risk management benchmarks' means the following rates, as determined by the Administrator:

''(i) Currency rate.

''(ii) Delinquency rate.

''(iii) Default rate.

''(iv) Liquidation rate.

''(v) Loss rate.

''(H) QUALIFIED INDEPENDENT AUDITOR.—For purpose of this paragraph, the term 'qualified independent auditor' means any auditor who—

''(i) is compensated by the qualified high loss reserve PCL;

''(ii) is independent of such PCL; and

''(iii) has been approved by the Administrator during the preceding year.

''(I) PCLP LOAN.—For purposes of this paragraph, the term 'PCLP loan' means any loan guaranteed under this section.

''(J) ELIGIBLE CALENDAR QUARTER.—For purposes of this paragraph, the term 'eligible calendar quarter' means—

''(i) the first calendar quarter that begins after the end of the 90-day period beginning with the date of the enactment of this paragraph; and

''(ii) the 7 succeeding calendar quarters.

''(K) CALENDAR QUARTER.—For purposes of this paragraph, the term 'calendar quarter' means—

''(i) the period which begins on January 1 and ends on March 31 of each year;

''(ii) the period which begins on April 1 and ends on June 30 of each year;

''(iii) the period which begins on July 1 and ends on September 30 of each year; and

''(iv) the period which begins on October 1 and ends on December 31 of each year.

''(L) REGULATIONS.—Not later than 45 days after the date of the enactment of this paragraph, the Administrator shall publish in the Federal Register and transmit to the Congress regulations to carry out this paragraph. Such regulations shall include provisions relating to—

''(i) the approval of auditors under subparagraph (H); and

''(ii) the designation of qualified high loss reserve PCLs under subparagraph (F), including the determination of whether a process for analyzing risk of loss is appropriate and effective for purposes of subparagraph (F)(ii).

''(8) BUREAU OF PCLP OVERSIGHT.—

''(A) ESTABLISHMENT.—There is hereby established in the Small Business Administration a bureau to be known as the Bureau of PCLP Oversight.

''(B) PURPOSE.—The Bureau of PCLP Oversight shall carry out such functions of the Administration under this subsection as the Administrator may designate.

''(C) DEADLINE.—Not later than 90 days after the date of the enactment of this Act—

''(i) the Administrator shall ensure that the Bureau of PCLP Oversight is prepared to carry out any functions designated under subparagraph (B), and

''(ii) the Office of the Inspector General of the Administration shall report to the Congress on the preparedness of the Bureau of PCLP Oversight to carry out such functions.''.

(b) INCREASED REIMBURSEMENT FOR LOSSES RELATED TO DEBENTURES ISSUED DURING ELECTION PERIOD.—Subparagraph (C) of section 508(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended by inserting ''(15 percent in the case of any such loss attributable to a debenture issued by the company during any period for which an election is in effect under subsection (c)(7) for such company)'' before ''; and''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 508(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended by striking ''subsection (c)(2)'' and inserting ''subsection (c)''.

(2) Paragraph (5) of section 508(c) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(c)) is amended by striking ''10 percent''.

(d) STUDY AND REPORT.—

(1) IN GENERAL.—The Administrator shall enter into a contract with a Federal agency experienced in community development lending and financial regulation or with a member of the Federal Financial Institutions Examinations Council to study and prepare a report regarding—

(A) the extent to which statutory requirements have caused overcapitalization in the loss reserves maintained by certified development companies participating in the Premier Certified

Lenders Program established under section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e); and

(B) alternatives for establishing and maintaining loss reserves that are sufficient to protect the Federal Government from the risk of loss associated with loans guaranteed under such Program.

(2) TRANSMISSION OF REPORT.—The report described in paragraph (1) shall be transmitted to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate not later than 90 days after the date of the enactment of this Act.

(3) LIMITATION.—The amount of the contract described in paragraph (1) shall not exceed $75,000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. MANZULLO).

GENERAL LEAVE

Mr. MANZULLO. 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 this legislation.

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

There was no objection.

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

The SBA's 504 Certified Development Company program provides small businesses with long-term, fixed-rate financing for the purchase of fixed assets such as land, buildings and equipment for business expansion purposes. The loans are made by CDCs, usually nonprofit corporations organized to contribute to the economic development of a particular community or region. The entire 504 program runs totally on user fees charged to small business borrowers. It does not receive an annual appropriation.

SBA has a Premier Certified Lender program that gives discretion to certain qualified CDCs to approve 504 loans subject to the borrower being eligible and the available loan authority. In return for this lower regulatory oversight, these premier CDCs must set aside more money in order to cover potentially bad loans than regular CDCs. Some premier CDCs believe that this amount of reserve is well beyond what is prudently required.

My good friend and colleague, the gentleman from California (Mr. DOOLITTLE), introduced H.R. 923 for the purpose of allowing premier CDCs to take a cue from the private sector by using a risk-based management approach to calculate the loan loss reserve requirements. I agree with this approach subject to certain conditions to protect the taxpayer and to ensure that no unintended consequences result from this change in policy such as higher loan fees. Our staffs have met to develop an acceptable compromise which unanimously passed the committee last month. I am pleased to present it to my colleagues before the full House today.

This bipartisan compromise creates a 2-year pilot program that permits qualified premier CDCs to use a risk-based approach to calculate their loan loss reserve requirements. In order to ensure that premier CDCs' loan loss reserves are sufficient to protect the taxpayer, the compromise establishes a Bureau of PCLP oversight within the Office of Lender Oversight at SBA. For those premier CDCs not in the new pilot program, they can withdraw from their loss such amounts that are in excess of 1 percent of their total outstanding loan balances. Finally, this compromise provides for a study to evaluate alternative loan loss reserve approaches.

H.R. 923 is about providing more liquidity and capital into the hands of small businesses without any additional cost to the taxpayer. I urge my colleagues to support H.R. 923.

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

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, today I rise in strong support of H.R. 923. This legislation is among the first steps that Congress will take this year to ensure that the Small Business Administration continues to serve the needs of our country's small businesses. I would like to thank the gentleman from California (Mr. DOOLITTLE) for bringing this important bill to the Committee on Small Business's attention.

This legislation will allow certified development companies to make more loans to small businesses while safeguarding the interests of our taxpayers. This is good for the government and good for small business, the driver of this Nation's economy.

Even though access to capital is access to opportunity for small businesses, many find it difficult to get funding, especially given the current lending environment. The SBA's lending program addresses this by providing a vital stream of funding to small businesses. Last year, these programs supplied $21 billion in capital, accounting for 40 percent of all long-term small business lending to this country's entrepreneurs.

Among SBA's loan programs, the 504 program provides the best value to taxpayers because it is completely self-funded. While the 504 program requires no funding, it contributes substantially to the economic growth of our communities. Given the weak state of our economy, the 504 program is especially important now because it promotes investment where we need it most, in the small business sector.

Yet capital remained elusive to many small businesses because the SBA, in many cases, took too long to make these loans and the process was too complicated. Since the SBA processing time for 504 applications can frequently approach 30 days, borrowers and lenders were deterred from participating.

In response to this, Congress created the Premier Certified Lender program. Through this public-private partnership, certified development companies are permitted to process their 504 loans without SBA approval. In exchange for this autonomy, SBA requires the certified development companies to assume responsibility for some of the losses associated with the loans they make.

While the Premier Certified Lender program addresses one problem, it created another by requiring the certified development companies to hold loan loss reserves in excess of amounts necessary to protect the government. These excess funds could serve a much better purpose, like being used to make loans for small business, the number one job creator in the United States, instead of sitting in a ledger helping no one at all.

To address these issues, today we are creating a pilot program that will permit the certified development companies to maintain loan loss reserves sufficient to protect the government and to draw out those amounts that are held in excess of such purposes. In order to oversee this new program, we are creating a new bureau within SBA.

By creating a system that frees up these funds, certified development companies will then be able to make more loans to small businesses, which is exactly what this Nation needs in a time of such economic uncertainty. Economic recovery is only within reach if small businesses are able to start up and grow, and this is impossible without capital.

H.R. 923 takes the important first steps to modernize the 504 program and, in doing so, increases small businesses' ability to secure much-needed capital.

Mr. Speaker, I urge the adoption of this legislation.

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

Mr. MANZULLO. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DOOLITTLE), my good friend and colleague, the author of the bill.

Mr. DOOLITTLE. Mr. Speaker, I thank the gentleman from Illinois (Mr. MANZULLO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for their remarks. I very much appreciate the support that they have given me on this bill and the cooperation that we have had from their staffs. I would like to acknowledge the gentlewoman from New York (Ms. VELÁZQUEZ), the ranking member, as well.

Indeed, the explanation for what this bill does has been clearly articulated by both our previous speakers and so I will choose not to repeat that, Mr. Speaker; but I have a statement which I will submit for the RECORD.

□ 1045

I feel that this bill, as was explained by our previous speakers, will actually

do something to help stimulate the economy. The Premier Certified Lenders Program is an excellent program. It has been unnecessarily tied down by the problem with the requirements about the loan loss reserves. This bill, as was explained, creates a risk-based approach to loan loss reserves with sufficient safeguards and monitoring to make sure that everything is going along as we would wish it to.

In the process, however, a tremendous amount of funds will be freed up that will be used to make loans to small businesses, and as we know, as this process unfolds, that will result in the employment of more people and the generation of more capital and will trigger, indeed, the very process that we need to have happen in order to make this a more vibrant and stronger economy.

Mr. Speaker, I rise today in support of H.R. 923, the Premier Certified Lenders Program Improvement Act, legislation I introduced in February.

Over the past few years, I have had an opportunity to learn of the outstanding work that certified development companies are doing across the county and in my district, in particular. CDCs participating in the Premier Certified Lenders Program are providing thousands of loans to small businesses and helping these businesses to create jobs and wealth.

As my colleagues know, small businesses are the economic backbone of our Nation. Nearly one in four American households are either starting a business, presently owning a a business, or investing in someone else's business. Our economy depends on entrepreneurs whose spirit result in the creation of both new businesses and new jobs.

I think the best policy our government can pursue to help small businesses in this country is to get out of their way. Unshackle the American spirit from high taxes and burdensome regulations, Mr. Speaker, and we shall witness tremendous job creation and economic growth. If the government seeks to help small businesses, it should remove regulatory hurdles and provide incentives for entrepreneurs.

One successful example of government encouragement of small business expansion is the Premier Certified Lenders Program PCLP. This program was established in 1997 and allows a participating Certified Development Company, CDC, the expanded authority to review and approve SBA 504 Loan requests and to foreclose, litigate, and liquidate SBA 504 Loans made under the Program. By taking on this authority, the private sector is able to stretch limited Federal resources in order to help more small businesses.

Unfortunately, current law requires premier certified lenders to deposit and maintain 1 percent of each debenture issued in a loan loss reserve fund, from which they are to reimburse the Small Business Administration, SBA, for 10 percent of any loss. Premier certified lenders must maintain that deposit throughout the life of the loan, even as the loan matures, the debenture is paid down, and the risk is reduced.

This requirement has resulted in the accumulation of unnecessarily high loan loss reserve funds for some premier lenders. In addition, it has deterred additional premier certified lenders from participating in the program at all.

Mr. Speaker, my bill simply allows these premier lenders the option of creating risk-based loan loss reserves. It includes several safeguards to ensure that these companies do not make bad loans and put Federal taxpayers at risk. Specifically, premier certified lenders must maintain no less than $100,000 in their loan loss reserve funds; they must employ 3rd-party auditors to review their reserve funds on a quarterly basis; their auditors must be approved by the SBA; and the PCL must meet SBA performance benchmarks to retain their eligibility to hold risk-based loan loss reserve funds.

Mr. Speaker, I want to sincerely thank Mr. MANZULLO, my friend and the Chairman of the Small Business Committee, for working with me to get the bill to this point. I also want to thank the Ranking Member, Ms. VELÁZQUEZ for her valuable input, and Mrs. CHRISTENSEN for representing Ms. VELÁZQUEZ on the floor today. Finally, I want to express my gratitude to the Chairman's and Ranking Member's staff, as well as my staff, for putting in so much time and energy into this effort.

I encourage my colleagues to support our Nation's small businesses by supporting this important legislation.

Mr. Speaker, I very much appreciate the bipartisan cooperation we have had on this, and I urge the passage of the bill.

Mrs. CHRISTENSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, let me first of all thank the gentlewoman from the Virgin Islands for yielding me this time. I also want to commend the chairman, the gentleman from Illinois (Mr. MANZULLO), and the ranking member, the gentlewoman from New York (Ms. VELÁZQUEZ), for bringing this legislation to the floor and getting us to this point.

When we talk about small businesses and we talk about the development of small business, one of the primary problems that people face is finding enough money to actually get a business off the ground, keep it going, keep it moving, have enough capital to actually carry the business on until they reach the point where they have the kind of cash flow and they have the kind of returns that they know they need in order to be stable and keep being successful. This PCLP Improvement Act helps to do all of that. It helps to make capital available and it gives people assistance to acquire what they actually need.

While it is true, Mr. Speaker, that some of the best things in life are free, I remember the song that says ''But you can give it to the birds and bees, what I need is money.'' And what small businesses need is capital to help them grow, develop and flourish. This legislation helps to do that.

Again I commend Chairman MANZULLO, my colleague from Illinois, and the ranking member for bringing this to the floor.

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

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

Mr. Speaker, small businesses today face many barriers to achieving their success. Today's legislation helps address one of the most significant barriers faced by small businesses: Access to capital. The bill before us today will make more capital available to small businesses, spurring economic development in our Nation's communities.

While today's legislation fixes a problem with the 504 program, it is only a stopgap measure. Even after we pass this legislation, small businesses will still have to endure SBA's inconsistent and bureaucratic 504 loan processing procedures. As such, today's legislation is the first of several near-term steps to centralize, streamline, and modernize the 504 program so that it is better able to meet the needs of our small businesses. First among these steps is this year's SBA reauthorization, in which we will address many of these deficiencies in order to help our country's small businesses access capital more readily.

Mr. Speaker, I would like to take this moment to thank Adam Minehardt, a Democratic staff member of the Committee on Small Business, and Greg Orlando, a staff member for the gentleman from California (Mr. DOOLITTLE), for their work on this important legislation. I also wish to thank the gentleman from California (Mr. DOOLITTLE) once again for bringing it to the committee, and our chairman and ranking member for their leadership on this bill and all the others we have worked on this year. This bill is truly a bipartisan product and the work reflects that spirit.

Mr. Speaker, I again urge the adoption of this legislation.

Ms. MILLENDER-MCDONALD. Mr. Speaker, I rise today to offer my support for H.R. 923, the Premier Certified Lenders Program Act of 2003.

Mr. Speaker, small business owners all over this nation have long been faced with a number of hurdles that limit their ability to be successful. Health care costs have risen at an astronomical rate, Federal regulations are being issued that establish competitive advantages for large firms, and, perhaps most importantly, access to capital is extremely limited.

In an attempt to address concerns about small business financing issues, 3 years ago Congress established the Premier Certified Lenders Program (PCLP) as a permanent Small Business Administration program.

The PCLP delegates substantial authority and autonomy to selected Certified Development Companies (CDCs) participating in the Small Business Administration's 504 Loan Program to offer long-term, fixed-rate financing for major fixed assets such as land and buildings.

My district is home to a CDC, the Long Beach Area Certified Development Corporation, and it serves the Cities of Long Beach, Signal Hill and Southern Los Angeles County. Ms. Regina Grant Peterson does an excellent job in reaching out to my constituents, doing all she can to promote economic development in the community.

Currently, because of antiquated laws, CDCs participating in the PCLP must keep financial reserves in excess of what is actually necessary to safeguard against potential losses, and are not allowed to withdraw from these reserves until loans are paid in full.

This severely limits the lending potential of these entities, costing small businesses nationwide millions of dollars in unused capital.

H.R. 923 addresses this issue by allowing participating lenders to withdraw from their loan loss reserves attributable to the payment of principal on outstanding loans.

In addition, the legislation would also create a Bureau of Lender Oversight within SBA that will oversee the calculation of loan loss reserves, thereby insuring that government monies are used appropriately.

Mr. Speaker, as a Ranking Member of the Small Business Committee, I enthusiastically support this measure, and I support its swift passage.

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

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

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 923, 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. MANZULLO. 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.

HOMELAND SECURITY TECHNICAL CORRECTIONS ACT OF 2003

Mr. COX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1416) to make technical corrections to the Homeland Security Act of 2002, as amended.

The Clerk read as follows:

H.R. 1416

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 ''Homeland Security Technical Corrections Act of 2003''.

SEC. 2. TECHNICAL CORRECTIONS RELATING TO CRITICAL INFRASTRUCTURE INFORMATION.

Section 212(3) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 131(3)) is amended by striking ''systems—'' and inserting ''systems insofar as such information pertains to—''.

SEC. 3. VISA ISSUANCE.

Section 428(a) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 236(a)) is amended—

(1) by striking ''subsection,'' and inserting ''section,''; and

(2) by striking ''office'' and inserting ''officer''.

SEC. 4. RESPONSIBILITIES OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

Section 502 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 312) is amended by striking ''shall include—'' and inserting ''shall be responsible for—''.

SEC. 5. MILITARY ACTIVITIES OF THE COAST GUARD.

Section 876 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 456) is amended to read as follows:

''SEC. 876. MILITARY ACTIVITIES.

''Nothing in this Act confers on the Secretary any authority over warfighting, the military defense of the United States, or other military activities that are authorized to be directed by the Secretary of Defense. This Act shall not be construed to limit the existing authority of the Secretary of Defense over warfighting, the military defense of the United States, or other military activities, including such activities of the Coast Guard when it is operating as a service in the Navy under section 3 of title 14, United States Code.''.

SEC. 6. ANNUAL INDEPENDENT EVALUATION OF INFORMATION SECURITY PROGRAM AND PRACTICES OF AGENCIES.

Section 3535(b)(1) of title 44, United States Code, is amended by inserting ''or any other law'' after ''the Inspector General Act of 1978''.

SEC. 7. IMMIGRATION-RELATED POWERS AND DUTIES OF THE SECRETARY AND THE ATTORNEY GENERAL.

(a) IN GENERAL.—Section 1102 of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2273) is amended—

(1) in the matter preceding paragraph (1), by striking ''as amended by this Act, is further amended by—'' and inserting ''is amended—'';

(2) by amending paragraph (1) to read as follows:

''(1) by amending the section heading to read as follows:

'''POWERS AND DUTIES OF THE SECRETARY OF HOMELAND SECURITY AND THE ATTORNEY GENERAL''';

(3) by amending paragraph (2)(D) to read as follows:

''(D) by redesignating the paragraph (8) added by section 372(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and the paragraph (9) added by section 373 of such Act, as paragraphs (10) and (11), respectively; and''; and

(4) in the matter added by paragraph (3)—

(A) by striking ''the Immigration Reform, Accountability and Security Enhancement Act of 2002.'' and inserting ''the Homeland Security Act of 2002.''; and

(B) by striking ''this section'' and inserting ''this subsection''.

(b) CONFORMING AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—

(1) SECTION 103.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) by striking ''He'' and inserting ''The Secretary of Homeland Security''; and

(II) by striking ''of the Service.'' and inserting ''of the Department of Homeland Security relating to the powers, functions, and duties conferred upon the Secretary by this Act and all other laws relating to the immigration and naturalization of aliens.'';

(ii) in paragraph (3)—

(I) by striking ''He'' and inserting ''The Secretary of Homeland Security'';

(II) by striking ''he deems'' and inserting ''the Secretary deems''; and

(III) by striking ''his authority'' and inserting ''the Secretary's authority'';

(iii) in paragraph (4)—

(I) by striking ''He'' and inserting ''Except as otherwise provided by law, the Secretary of Homeland Security'';

(II) by striking ''the Service or the Department of Justice'' and inserting ''the Department of Homeland Security''; and

(III) by striking ''employee of the Service.'' and inserting ''employee of the Department.'';

(iv) in paragraph (5)—

(I) by striking ''He'' and inserting ''Except as otherwise provided by law, the Secretary of Homeland Security'';

(II) by striking ''in his discretion,'' and inserting ''in the Secretary's discretion,''; and

(III) by striking ''such number of employees of the Service as to him shall appear necessary and proper.'' and inserting ''such number of employees of the Department of Homeland Security as shall appear necessary and proper to the Secretary.'';

(v) in paragraph (6)—

(I) by striking ''He'' and inserting ''The Secretary of Homeland Security''; and

(II) by striking ''of the Service.'' and inserting ''of the Department of Homeland Security.'';

(vi) in paragraph (7)—

(I) by striking ''He'' and inserting ''The Secretary of Homeland Security'';

(II) by striking ''of the Service'' each place such term appears and inserting ''of the Department of Homeland Security'';

(III) by striking ''he may,'' and inserting ''the Secretary of Homeland Security may,''; and

(IV) by striking ''in his judgment'' and inserting ''in the Secretary's judgment'';

(vii) in paragraph (8), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(viii) in paragraph (10) (as redesignated by section 1102 of the Homeland Security Act of 2002)—

(I) by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security''; and

(II) by striking ''of the Service.'' and inserting ''of the Department.''; and

(ix) in paragraph (11) (as so redesignated)—

(I) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(II) by striking ''by the Service'' each place such term appears and inserting ''by the Department'';

(B) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(C) by amending subsection (c) to read as follows:

''(c) The Secretary of Homeland Security may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.'';

(D) in subsection (d), by striking ''The Commissioner,'' and inserting ''The Secretary of Homeland Security,'';

(E) in subsection (e)—

(i) by striking ''The Commissioner'' and inserting ''The Secretary of Homeland Security''; and

(ii) by striking ''district office of the Service'' and inserting ''field office of the Department of Homeland Security''; and

(F) in subsection (f)—

(i) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(ii) by striking ''of the Immigration and Naturalization Service'' and inserting ''of the Directorate of Border and Transportation Security of the Department of Homeland Security''; and

(iii) by striking ''the functions of the Service,'' and inserting ''the functions of the Directorate,''.

(2) SECTION 287(g).—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended by striking ''Attorney

General'' each place such term appears and inserting ''Secretary of Homeland Security''.

(c) CLERICAL AMENDMENTS.—

(1) HOMELAND SECURITY ACT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2135) is amended by inserting after the item relating to section 1103 the following:

''Sec. 1104. Effective date.''.

(2) IMMIGRATION AND NATIONALITY ACT.—The table of contents of the Immigration and Nationality Act is amended by amending the item relating to section 103 to read as follows:

''Sec. 103. Powers and duties of the Secretary of Homeland Security and the Attorney General.''.

(d) CONSTRUCTION.—The amendments made by this section shall not be construed to repeal, or limit the applicability of, section 456, 462(e), 1512(d), or 1517 of the Homeland Security Act of 2002, or any other similar provision pertaining to the treatment of references in law, with respect to any provision of law that is not amended by this section.

SEC. 8. EFFECTIVE DATE OF MODIFICATIONS TO REORGANIZATION PLAN.

Section 1502(d) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 542(d)) is amended by striking ''subsection (d)'' each place it appears and inserting ''subsection (c)''.

SEC. 9. REPORT ON WAR RISK INSURANCE FOR AIR CARRIERS.

Section 1204 of the Homeland Security Act of 2002 (116 Stat. 2287) is amended—

(1) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively, and by moving the text of such paragraphs 2 ems to the left;

(2) in the matter preceding paragraph (1) (as so redesignated) by striking ''Secretary'' and inserting ''Secretary of Transportation''; and

(3) in paragraph (3) (as so redesignated) by striking ''Department'' and inserting ''Department of Transportation''.

SEC. 10. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

Section 1405(a) of the Homeland Security Act of 2002 (116 Stat. 2307) is amended by striking ''section 6 of this Act'' and inserting ''section 1406 of this Act''.

SEC. 11. REQUIREMENT TO SUBMIT REPORTS AND NOTIFICATIONS TO SELECT COMMITTEE.

(a) REQUIREMENT.—The Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after section 4 the following:

''SEC. 5. REQUIREMENT TO SUBMIT REPORTS AND NOTIFICATIONS TO SELECT COMMITTEE ON HOMELAND SECURITY.

''In any case in which a report or notification is required by this Act or an amendment made by this Act to be submitted to the Congress or to a Committee of the Congress, such report shall also be submitted to the Select Committee on Homeland Security of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after the item relating to section 4 the following:

''Sec. 5. Requirement to submit reports and notifications to Select Committee on Homeland Security.''.

SEC. 12. CLARIFICATION OF REPORTING REQUIREMENT CONCERNING ELECTRONIC COMMUNICATIONS PRIVACY ACT EMERGENCY DISCLOSURE EXCEPTION.

Section 225(d)(2) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2157) is amended by striking ''2702(b) of title 18, United States Code,'' and inserting ''2702(b)(7) of title 18, United States Code (as added by paragraph (1)(D)),''.

SEC. 13. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the enactment of the Homeland Security Act of 2002 (Public Law 107–296).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. COX) and the gentleman from Texas (Mr. TURNER) each will control 20 minutes.

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

Mr. COX. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I want to thank my friend, the gentleman from Texas (Mr. TURNER), the ranking minority member of the Select Committee on Homeland Security, and the rest of the committee members for devoting their time and energy to the important work of this committee. I rise today in support of H.R. 1416, which amends the Homeland Security Act.

Mr. Speaker, the broad bipartisan support given to this bill exemplifies the collaborative nature of our committee. This committee is united in its mission to provide aggressive oversight of the Department of Homeland Security and to ensure the full implementation of the Homeland Security Act. When President Bush called on Congress to create the Department of Homeland Security last year, the goal was to create a more secure America. By putting one department in charge of scores of agencies and programs, we can better protect our country, we can protect our critical infrastructure, and, most importantly, we can protect the American people.

Congress proved it was up to the challenge. In a display of bipartisan cooperation, in only 5 months Congress delivered to the President's desk for signature the 187-page Homeland Security Act of 2002. This law authorized the most comprehensive reorganization of the Federal executive branch since the creation of the Department of Defense in 1947. The act clearly laid out goals of the Department of Homeland Security: The prevention of another terrorist attack, the protection of our critical national infrastructure, and preparedness in the event we cannot prevent attacks on our domestic territory.

Key to this is our ability to collect, analyze and use timely and accurate intelligence information. This lies at the heart of the primary mission of preventing another terrorist attack. What we do not know empowers our enemies, but what we do know will help defeat them. By properly understanding the threats that confront us, we can better allocate our resources, and we can focus our security efforts where they are most needed, where the risks and potential consequences of attacks are greatest.

The Department of Homeland Security must analyze information quickly and reliably so that it can martial its own resources as needed and, more importantly, it must also transmit that information to those on the front lines, our State and local law enforcement and first responders, who protect us and our critical infrastructure.

The Homeland Security Committee has been overseeing the Department's early efforts to achieve this critical intelligence capability mandated by the Homeland Security Act and we will continue to do so. This committee and the Department of Homeland Security are also working together to ensure that a comprehensive security plan is in place to make the best use of intelligence. Critical elements of this security plan include a layered defense, effective border security, thorough passenger and baggage screening at America's airports, and a rigorous inspection process to keep would-be terrorists and their weapons out of the country.

Our first responders must also have the best information about pending threats as well as the training and the tools to respond to any disasters if they were to occur. The Homeland Security Act laid out a vision of a more secure America, which is now being realized through the efforts of the Department of Homeland Security working in concert with other Federal agencies, State and local governments, private industry, charitable organizations, community centers, and private citizens. Secretary Ridge and his staff are working diligently to coordinate these efforts and to complete this mission, a mission that is as difficult as it is important. I thank Secretary Ridge for his leadership and for being willing to work very closely with the Homeland Security Committee in the House during the act's implementation.

The legislation we are considering today is in itself an important aspect of the act's implementation. Congress' desire to expedite the creation of this important department meant that minor errors were made and certain details were omitted from the Homeland Security Act. As a result, my fellow Members and I felt that one of the first orders of business of the Homeland Security Committee in the current Congress should be to honor the original intentions of the drafters by making certain corrections to the act so that it can be properly implemented. Today's legislation successfully fills in the cracks created by the speedy construction of the Homeland Security Act and strengthens the legislation which is already helping the United States win the war on terror.

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

Mr. TURNER of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1416, the Homeland Security Technical Corrections Act, and I first want to thank the chairman, the gentleman from California (Mr. COX), for

his leadership of our new Select Committee on Homeland Security.

The legislation before us is a product of the bipartisan cooperation that we have on that committee. It has been a pleasure to work with the chairman. I know that all of our members who serve on that important select committee feel the same dedication that the chairman and I do to accomplishing the task of protecting America and to do it in a way that moves us forward in a more rapid and stronger way.

The select committee, of course, has been in business for just a few months, and no business is more important than the work of the House Select Committee on Homeland Security. We have quickly discovered that when it comes to doing all we can to protect America, our needs are indeed very great.

Mr. Speaker, we are, as we all know, involved in a great struggle: The war against international terrorism. It is not a war we sought, it is not a war we started, but it is a war that we must and we will finish. Mr. Speaker, we must move faster in some very critical areas. We must do a better job in determining how to meet the threat posed by international terrorism.

The testimony before our committee from some high officials in the Department of Homeland Security revealed to us that there are only 21 analysts matching intelligence on threats with our vulnerabilities and then recommending protective action. This critical area of the Department of Homeland Security, the responsibility which is housed within the Office of Information Analysis, has been the subject of scrutiny by our select committee, and both sides of the aisle have expressed concern about the lack of full functioning of that particular entity, which in many ways is the nerve center of the Department of Homeland Security.

It is perhaps the most important new addition that this Congress provided in the Homeland Security Act of 2002, to place within that department the responsibility for gathering the threat information and matching it against our vulnerabilities, and then using that information to direct the entire activities of the 22 agencies that were merged into that new department, and to further take that information, of matching threat against vulnerability, and providing it to our States and our local entities so that they will know how to protect their communities against the threat of terrorism.

We also learned in our committee, during a hearing on Project BioShield, that this very same Office of Information Analysis has to date only one, only one person dedicated to responding to the bioterrorist threat. Our committee, in a bipartisan hearing, shared our mutual concern for the failure to get that particular activity within that Office of Information Analysis functioning in a way that it must function in order to carry out the purpose and intent of the Project BioShield legislation that we will be considering on this floor in just a few days.

□ 1100

Mr. Speaker, I believe it is clear that all of us understand that we must move faster to ensure that this critical function of this Department is in place, up and running as soon as possible. It has become very clear that we as a Nation need to make the same commitment to the protection of our homeland as we made to securing victory in Afghanistan and Iraq. This Congress made sure that our 220,000 troops that fought in Operation Iraqi Freedom were supported by the best equipment and training in the world; and the cost of that battle, according to the appropriations made by this body, will approach $65 billion.

Today, to secure America from the threat of terrorism, the Coast Guard has plans to review security for 4,400 port facilities and over 10,000 ships that enter our waters, and yet this Congress has yet to make the commitment to make sure that the funds are there to get the threat assessments done that are required to carry out that important responsibility. We must move faster.

Today we have only one person on guard for every 16 miles on our northern border. The PATRIOT Act called for the tripling of our forces on our northern border to close the gaps on our northern frontier. The resources have not yet been committed to deploy the 1,800 border personnel needed to enhance our security. We must do better, and we must move faster.

Today, we know that half of the firefighters' shifts across our Nation that will be the first called upon to respond to a terrorist attack lack the necessary communications equipment to deploy in the field so as to be able to talk to one another and to the other agencies that would be responding in the event of a terrorist attack. We must do better, and we must move faster.

Mr. Speaker, we have many challenges ahead of us, but I am confident that this legislation is but a first step in moving us forward as a Nation to be sure that we do everything necessary to be sure that every American can know that they will be safe and secure in their communities.

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

Mr. COX. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP), the chairman of the Subcommittee on Borders and Infrastructure.

Mr. CAMP. Mr. Speaker, I rise in support of H.R. 1416, the Homeland Security Technical Corrections Act of 2003. This bipartisan bill makes grammatical and technical changes to the Homeland Security Act of 2002.

The Department of Homeland Security, the product of the Homeland Security Act, has existed for a little more than 100 days. The Homeland Security Act brought together a number of Federal agencies with homeland security functions into one collaborative effort, joining resources, information and missions to defend our Nation.

Protecting our Nation from attack requires strengthening our border defenses. We must know who and what is passing through our country. The American people deserve this level of security. Utilizing technology advancements, we can monitor individuals and intelligently screen cargo without delaying legitimate trade and travel. Cross-border commerce is critical to the American economy. Trade with Canada and Mexico, our country's top trading partners, is growing at a rapid pace with almost $1.4 billion crossing the northern border every day; and with more than $250 billion in trade per year with Mexico, our Nation cannot lose sight of the vital importance of the uninterrupted flow of trade as new policies for border security are pursued. Security and commerce are not mutually exclusive goals.

Since the Department of Homeland Security was officially created, coordination between border security agencies has definitely improved. Twenty-four hours a day, American citizens are patrolling our borders, searching cargo, and checking individual travelers. This is not new since September 11, 2001; however, we are now acutely aware of the threat to our Nation and people and have stepped up our response by uniting our security functions. As the new Department continues integrating and organizing, there are certain areas that the Federal Government needs to address.

As chairman of the Subcommittee on Border and Infrastructure of the Select Committee on Homeland Security, I look forward to working with the gentleman from California (Mr. COX) and the Department of Homeland Security to address security along our Nation's borders, over 300 ports of entry, and to better protect our critical infrastructure. As Congress continues to assist the new Department in meeting obligations in the act, I would like to thank the gentleman from California (Mr. COX) for bringing this technical corrections bill to the floor and for his leadership, and reiterate my support for H.R. 1416.

Mr. TURNER of Texas. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), who is the ranking member of the Subcommittee on Borders and Critical Infrastructure.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to talk about H.R. 1416, the Homeland Security Technical Corrections Act. I would like to commend our chairman, the gentleman from California (Mr. COX), for his leadership and stewardship, and also, of course, the gentleman from Texas (Mr. TURNER) for the stewardship that they have on this new Select Committee on Homeland Security and for their efforts to push this bill and to get it included on the suspension calendar.

H.R. 1416 is a historic bill because it is the first bill that our committee, the Select Committee on Homeland Security, will do. I trust that it is going to be the first of many bills that this committee will work on in a very bipartisan manner as we continue to tackle the many difficult issues surrounding homeland security.

Over the last month, members of our committee worked very diligently to look at the oversight function through a number of informative hearings and briefings. Unfortunately, however, the message is all too often the same: the Department of Homeland Security is not moving fast enough to fill the gaps that exist in so many areas of homeland security.

H.R. 1416 comes to the floor on the heels of a select committee delegation trip and field hearing in Southern California just this past weekend. The hearing focus was on one specific aspect of homeland security, port security. Our ports are one of the most vulnerable threat risks in our Nation, and we need to provide the means and resources for adequate security.

Every year, more than 4 million cargo containers accounting for 35 percent of all the U.S. international trade passes through the ports of Los Angeles and Long Beach. Over the weekend we saw for ourselves just how important this port is to economic and trade commerce issues for the United States and the global economy. And the message that we received from Southern California witnesses involved in port security was familiar to all of us because we had heard it from other witnesses in other areas of homeland security: they are understaffed, they are underequipped, and they are underfunded.

Members of the Coast Guard told us they have not received the funding that they need for basic security upgrades. The United States Customs Inspector Program is understaffed, and employees that are there do not have the equipment that they need to adequately secure and check the containers, and resources needed are just the beginning of the problem that we saw at our ports. We heard from the sheriffs from both Los Angeles and Orange counties who are in desperate need of funding, especially Orange County, because unlike Los Angeles, we are not considered a high threat urban area and because funding of one of our most costly expenditures, personnel costs, simply does not exist at this point. They told us they have not seen any of the money that they were promised to cover personnel and other costs. The funds simply are not getting through the pipeline down to the local level.

In my community, the city of Anaheim where Disneyland is located, our police department spends over $20,000 every day that we go from yellow to orange alert just on our police department. If we go to red alert, it is double that, almost $40,000 additional money every day; and yet we have not helped at the Federal level to get that money down to them. It does not include equipment that they need, supplies, the fire department personnel or personnel at the emergency operations center, and then there are other costs to consider also.

For instance, the Joint Terrorism Task Force that has been set up and is very effective in sharing intelligence and information between FBI and CIA and the local law enforcement agencies, the State of California, they want to participate in that and they do, but at their own costs. The city of Anaheim, at its own cost; the city of Santa Ana, at their own cost; the County of Orange, at their own cost.

Our first responders do not have the necessary resources to allow them to dedicate a few of their personnel to these effective anti-terrorism programs. This is a striking example of good solutions that exist where there are no resources to adequately implement them. The Department of Homeland Security has done a decent job in outlining what its mission is. However, we need to move quickly and forcefully to achieve that mission. The Department has a number of programs in place to improve homeland security. But so far the first responders, the people right at street level, handling information, trying to understand what is happening, trying to stop things from happening, and God forbid having to react to what happens, they have not seen the information they need nor the resources they need; and I hope that this is not just the first piece of legislation that our committee does, but that we continue our oversight function and our program function to get this done.

Mr. COX. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington (Ms. DUNN), the vice chairman of the Select Committee on Homeland Security.

Ms. DUNN. Mr. Speaker, every morning 180,000 of our fellow citizens go to work with one main thing on their mind, to prepare, to prevent and to respond to a potential terrorist attack in the United States. These people work for one of the 22 agencies that have been brought together under the umbrella of the Department of Homeland Security.

Homeland security has new meaning since September 11. We can no longer assume that we will be protected from terrorist acts. We now live in a world where we must prepare for possible attacks. For this reason, I was proud to support the President's request for the creation of a Department of Homeland Security that is solely focused, with a very laser-like focus, on the prevention and protection from terrorist attacks in this country.

Since its inception on January 24, 2003, the Department of Homeland Security has made significant strides in protecting the country from terrorist attacks. Let me give a few examples. In March 2003, the Department opened its door and then it launched Operation Liberty Shield, the first comprehensive national plan to increase protections of American citizens and national infrastructure. Homeland security funding has increased over 1,000 percent from fiscal year 2001 to fiscal year 2004, and this has allowed States and localities to purchase new technologies and tools for first responders.

Recently the Department ran TOPOFF II, a simulated exercise in Seattle and Chicago using large-scale weapons of mass destruction. Exercises like this are very important to provide first responders the experience needed to know when the decisions are going to be made, who is going to make these decisions, and how to handle our resources.

While the Department of Homeland Security has had great success over the last 5 months, there are still many issues to be resolved. The House of Representatives took the appropriate steps at the beginning of the 108th Congress in establishing a Select Committee on Homeland Security to help Secretary Ridge in guiding and overseeing the newly created Department. As with all Federal agencies, it is very important to hold this large Department accountable to the people we represent. The Select Committee on Homeland Security will act as the people's voice to focus attention toward our security. It will listen to the first responders, it will find a better way to get the millions of dollars that have already been allocated and should have been already received by first responders, such as $45 million in grants allocated to the State of California, but not received by their first responders. We need to help solve this problem.

It will be a focal point between Congress and the administration to coordinate the necessary resources to best defend our Nation. I look forward to continuing to work with the gentleman from California (Mr. COX) and other members of our committee to develop legislation and provide oversight that will aid the Department of Homeland Security in their mission to prepare, prevent, and respond to a terrorist attack to protect our constituents all over the country.

Mr. TURNER of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the Select Committee on Homeland Security.

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

□ 1115

Mr. ANDREWS. Mr. Speaker, I thank my friend from Texas for yielding me this time. I would like to congratulate and thank the gentleman from California (Mr. COX) and the gentleman from Texas (Mr. TURNER) for their leadership in bringing the first of what I hope is a series of bipartisan bills to the floor that will improve our country's homeland security. There is much

work to be done. In each area that comprises homeland security, the work of this committee thus far has uncovered significant weaknesses and deficiencies that our country must resolve.

Homeland security first is the matter of knowing who is outside the fence of our home who is trying to do us harm, and that principally is a matter of diplomacy and intelligence. I frankly was dismayed to hear in recent weeks the testimony about the chaotic and dysfunctional relationship between the Department of Homeland Security and the various intelligence agencies. You cannot stop someone from attacking America if you do not know that they are trying to do it. This is an urgent problem that needs our attention.

The second aspect of homeland security is building the highest and strongest wall that we can build around our country. There is significant progress that has been made here. I especially commend the gentleman from Texas (Mr. THORNBERRY), chairman of the Subcommittee on Cybersecurity, and the gentlewoman from California (Ms. LOFGREN), who I think have very correctly focused on the risk to the country in the cybersecurity area.

But there are many more areas that need to be pursued. I would echo what the gentlewoman from California (Ms. LORETTA SANCHEZ) said a few minutes ago. The front line soldiers in making that wall as high and strong as possible are America's first responders, our police, our fire, our emergency services personnel. Later today, the House will consider a homeland security appropriations bill that does more for those first responders than has ever been done before in the history of the Federal Government. It is not nearly enough. It is not happening nearly soon enough. I know there will be some discussion under the appropriations bill about the wisdom of trading off over $2 trillion worth of tax cuts for more urgent and necessary help for these first responders. I think we should have chosen to help the first responders, and I think that is an area of debate that should be explored as the committee goes forward.

The third area of homeland security is the question of chain of command and allocation of responsibility when we have a terrorist attack that is imminent or ongoing. There is chaos and dysfunction in this area as well. Because everyone is in charge of an ongoing attack, no one is in charge of defending against an ongoing attack. The Select Committee on Homeland Security, working together with the Committee on Armed Services and other relevant committees, needs to think about who would be in charge in America this morning if, God forbid, our President received word that a terrorist attack was happening right now, who reports to whom, who is in charge of whom, and who is responsible for what. This is an area that is unexplored and dysfunctional at the present time.

Finally, homeland security is a matter of response. It is a matter of the immediate aftermath of an attack. One of the most impressive things about September 11 was how the first responders and other responders reacted to the tragedies in New York and in Virginia and Pennsylvania, because in many ways they were making it up as they went along. They did not have the contingency plans, they did not have the equipment, they did not have the training. They did a heroic and spectacular job. One of the least impressive things about our country's preparations in homeland security is how still relatively unprepared we are for that immediate aftermath. Questions about taxing the public health system, questions about evacuation plans, questions of coordination and joint services agreements among municipalities, counties and States still need to be worked out.

This is a bipartisan mission of national urgency. I am encouraged that the committee has worked together on this technical corrections bill. I fully support it. But if this is all we do and if this is as far as we go, then the deficiencies that I pointed out this morning will come back to haunt us. That benefits no one; that jeopardizes everyone. I hope that we will work together in the months and years to come to strengthen ourselves so we never again live another nightmare like this country did on the 11th of September, 2001.

Mr. TURNER of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I thank the gentleman from Texas for yielding me this time. I want to commend the chairman and Mr. TURNER for the work that has gone on on this particular legislation; and I want to rise, too, to raise my concerns about this whole homeland security effort. I have had several meetings with Tim Lowenberg, the head of the National Guard in Washington State and Governor Locke's coordinator for homeland security. We have discussed on two or three occasions our mutual concerns about the resources getting back to those first responders in the State of Washington. In fact, I have contacted my fire department and police department in Tacoma and in Bremerton, the two biggest cities in my district. I have convened a meeting of the officials, and very little of the money that Congress has authorized and appropriated has actually gotten back to those first responders. I think this is something we have got to get straightened out. The Congress has to get this straightened out. I also have been out to Northern Command. I regret that I could not be with the chairman on their recent trip twice now to talk to General Eberhart about the role that the military of the United States is going to play.

As strange as it may seem, for many, many years we did not have a CINC that was in charge of protecting the United States. We took it for granted that somehow we were secure from an attack. That is one thing that 9–11 certainly did change. We now recognize the vulnerability of our country and the vulnerability of our infrastructure. I agree with the comments that I have heard here this morning. We need to continue to do more. We have got to get the private sector to protect its critical assets. We have got to work with them to make certain that they are doing it. The chemical industries, our nuclear reactors, our energy plants, the transmission lines for our power grids and facilities, all of these things have to have a plan for protection. The States have to have, I believe, an individual plan for their protection. So there is a lot of work that has to be done. I want to make the same plea.

I worked with the gentleman from California (Mr. COX) on a select committee on transfer of technology to China. I have great confidence in his leadership and in his willingness to take on a tough issue. But we have to have the courage in this body, this institution, to tell the administration when they are doing a good job, but also tell them when they are not doing enough. I worry that when you have the Council on Foreign Relations and the Brookings Institution taking independent looks at what has happened in the last 2 years since 9–11 and the conclusion is that not much has really changed, then we in this body have a responsibility to make certain that the job, in fact, is getting done. Let us continue to work on a bipartisan basis, but let us make sure the job is getting done.

Mr. COX. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. THORNBERRY), the chairman of the select committee's Subcommittee on Cybersecurity, Science, and Research and Development.

Mr. THORNBERRY. Mr. Speaker, I appreciate the chairman yielding me this time, and I rise in support of this technical corrections bill. I also want to acknowledge that there is a lot of work left to be done. We will not make our country as secure as it needs to be in just a few short weeks, months or possibly even years. It is tempting for us in the Congress to think that if we can just pass a bill or we can spend more money, then we will have solved the problem. That is probably not true with most problems. It is particularly not true here. In fact, I have said that if we spend the whole Federal budget on something called homeland security, we will still not have eliminated the terrorist threat to the United States.

Instead, we have to do it the harder way. We have to really understand the problems, we have to set priorities, and we have to have the sense of urgency that is required coupled with a thoughtfulness that indicates that we are really doing the right thing. There is a tension there that I think a lot of us on both sides of the aisle feel.

In our Subcommittee on Cybersecurity, Science, and Research and Development, we are focusing partly on technologies, so that we can identify technologies that have been developed and encourage them to be fielded quickly so that we can be safer quickly. And then in addition, we can research those areas where technologies have not yet been developed where there is a need. We will focus on the cyber threat. We are having a hearing, for example, this week to try to understand the nature of the threat, also our vulnerabilities and the appropriate role of the Federal Government. We are interested in the information technology of the Department itself, because whether we are focused on the borders or in many other aspects of guarding our homeland, having good information technology, where the databases communicate with each other, that are user friendly but also secure is a key part of the challenge that faces this Department.

Mr. Speaker, to be successful there has to be partnerships involved, partnerships across the aisle, partnerships with the administration, partnerships with the private sector. I look forward to working with all my colleagues to develop those partnerships and to be successful.

Mr. COX. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG), the chairman of the Subcommittee on Emergency Preparedness and Response.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in strong support of H.R. 1416, the Homeland Security Technical Corrections Act. Today's bill represents our committee's first adjustment of the Homeland Security Act. As we have been examining some of the issues pertinent to homeland security, it will be necessary to make other changes to the act in order to provide clearer counsel to the Department as it undertakes its massive new responsibilities. For example, on my Subcommittee on Emergency Preparedness and Response, we have discovered that while the Department's main mission is to prevent terrorist attacks against the United States, the law fails to rest the specific responsibility for preventing such attacks with any one of the four directorates; and therefore it is unclear which of those directorates is in charge of this most critical mission. Other examples of how and where fine tuning of the statute is needed will arise as we do our work, and we will act to improve the law.

Mr. Speaker, the Department of Homeland Security became a reality just in March. It represents the largest reorganization of the Federal Government since World War II. This is truly a herculean task, but the Department has taken some important steps to assist our Nation's readiness for emergencies. $566 million has been made available to the States and the cities from the fiscal year 2003 budget to assist first responders in the form of funding for equipment, training, planning and exercises. $750 million has been made available for firefighter assistance grants from the fiscal year 2003 budget to help rural, urban and suburban fire departments better train, prepare and equip themselves. On April 30, $1.5 billion was made available to States and localities from the fiscal year 2003 supplemental budget to help State and local law enforcement personnel pay for equipment, training and exercises and to offset the costs associated with enhanced security measures deployed during heightened periods of threat. On May 14, $700 million was allocated from the fiscal year 2003 supplemental budget as part of the urban area security initiative for 30 cities and their contiguous counties and mutual aid partners to enhance the security of urban areas with high-density populations.

I rise in strong support of this legislation. I thank the chairman for bringing it forward. I look forward to working to make our Nation more secure.

Mr. COX. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS), the chairman of the Subcommittee on Intelligence and Counterterrorism.

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

Mr. GIBBONS. Mr. Speaker, I thank the gentleman from California for yielding me this time. I rise in support of H.R. 1416, the technical corrections bill for the Homeland Security Act. Mr. Speaker, following the events of September 11, 2001, our Nation began the most significant reorganization of the Federal Government since 1947, all in an effort to better protect America from terrorist attacks. The Department of Homeland Security was founded in an effort to create a centralized authority capable of streamlining and harmonizing our country's domestic security.

One of the clearest lessons learned from the tragic events of September 11 was the need for our intelligence and security agencies to share information and unify their efforts to the most feasible extent possible. Tasked with meeting this challenge is the Department of Homeland Security's directorate of information analysis and infrastructure protection, commonly known as the IAIP. H.R. 1416 will help the directorate achieve the goal of information-sharing.

The Homeland Security Act established the IAIP as a critical component in providing comprehensive threat analysis and management capacity to our Nation and will serve as the primary focal point for intelligence-sharing and analysis related to domestic security.

□ 1130

IAIP will provide vertical as well as the horizontal information flow that will allow our security forces, including our local community first responders, to respond as quickly and effectively as possible in executing their mission. As the Department of Homeland Security moves forward in accomplishing its mandate to make America safer, the Director of Information Analysis and Infrastructure Protection will have to play an integral role in assuring our intelligence agencies share information with each other as well as with the State and local law enforcement agencies and first responders.

I would like to thank Secretary Ridge and his department staff for their assistance and cooperation with our efforts in Congress to assure the Department of Homeland Security accomplishes this dual task of protecting against future terrorist attacks and preparing our Nation for our Nation's emergency response should an attack unfortunately occur. As Secretary Ridge and the Department of Homeland Security continue their work in this unchartered area, I look forward to a continued successful and productive relationship and urge support for H.R. 1416.

Mr. COX. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), the vice chairman of the Subcommittee on Legislative and Budget Process under the Committee on Rules.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, the Homeland Security Act of 2002 represented a monumental undertaking to reorganize multiple Federal agencies with various jurisdictions. This legislation, as amended by the Select Committee on Homeland Security, is an important step in the committee's oversight of the newly created department. Among other things, the technical corrections in H.R. 1416 further clarify the powers and duties of the Secretary of Homeland Security and the Attorney General.

Further, the gentleman from California's (Chairman COX) mark addressed concerns raised about the original bill's language that would have potentially placed jurisdiction of the Bureau of Citizenship and Immigration Services under the Under Secretary of Border and Transportation. These corrections provide guidance and more accountability by creating a clearer chain of command.

By abolishing the INS and reorganizing its functions, the Homeland Security Act I think made tremendous strides toward achieving a delicate balance between protecting our country from those who might do it harm and those properly seeking admission into the United States.

I look forward to continuing to work through the select committee under the leadership of the gentleman from California (Chairman COX) and also with the gentleman from Texas (Mr. TURNER) and all of our colleagues to

continue to strike an important balance that we did in the example mentioned of Immigration and Border Control. Under the leadership of the gentleman from California (Chairman COX), we are taking the first of many steps to ensure that the Department of Homeland Security is appropriately organized to not only help prevent terrorist attacks through heightened security and preparedness but also to respond effectively in times of need.

Our successes, Mr. Speaker, will depend much on the foundation which we have laid in the framework for this new department, and we will continue to work to ensure that we do so as effectively as possible.

Mr. TURNER of Texas. Mr. Speaker, I yield myself such time as I consume.

Let me thank the gentleman from California (Chairman COX) for his leadership on this bill and his continued effort to try to mold our committee into one that will accomplish the goal that we all have of building a secure America. I know that when we look at where we are now there are many deficiencies, and we must recognize that the oversight responsibility of our committee is perhaps the most challenging of any committee in the Congress. The reorganization of 22 agencies molded into one Department of Homeland Security is a landmark change designed to be sure that the focus of those agencies is on protecting America, and so I am pleased that the chairman and I and members of our committee have worked closely together to take on the responsibility of oversight which is so critical, ensuring that we mutually achieve the goal that we have in mind.

We all know that we must set the priorities. The priorities for homeland security can never be set unless the Department of Homeland Security carries out that vital function of determining the threats and matching them against the vulnerabilities, and I am pleased that the chairman has provided the leadership that we need to move forward in that area.

There is much to be done, Mr. Speaker, and we must move faster and we must be stronger than we are today if we are going to ensure a secure America. This legislation is but a small step in that direction, and I am pleased to join with my colleagues in support of H.R. 1416.

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

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

I want to return the thanks and congratulations to the gentleman from Texas (Mr. TURNER), the ranking member, for his leadership and work on this important legislation.

The bill that we are bringing before the House today represents the extraordinary scope of responsibilities of the Department of Homeland Security. Although this is a technical corrections bill, it amends portions of the Homeland Security Act concerning the breadth of the responsibilities of the department, including critical infrastructure protection, visa issuance, first responders, the military activities of the Coast Guard, information security, training for first responders to enforce border controls within the country, war risk insurance, arming flight deck crew on commercial airliners, and enforcing the Privacy Act. Each of these subjects is touched upon in the bill, H.R. 1416, that is now before us.

This committee is going to continue its aggressive oversight. We are going to continue legislating and improving the Homeland Security Act itself, and we are going to continue authorizing ever more resources, both financial and information, as we fight the war against terrorism.

Between last year and the current appropriations cycle, the Congress has authorized and enacted over $17 billion in funding for homeland security. We have increased funding for first responders over 1,400 percent. Just this year, a few months ago, we added $3.5 billion additional in a supplemental spending bill for first responders, and later today on the floor we will make appropriations for the next year with an additional $4.4 billion for first responders.

Beyond money we need to provide information, as the ranking member and I have both stressed here on the floor, we need to share that intelligence information between the Intelligence Community and law enforcement in Washington, and we need to share between Washington and our State and local law enforcers.

Mr. Speaker, I am confident that we can win the war on terrorism. I know we are in this for the long haul, but the preparations that this Congress is making today will stand this country in good stead for years to come. I urge support for H.R. 1416.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of H.R. 1416, the Homeland Security Technical Corrections Act of 2003. This is the first bill from our new but very important Select Committee on Homeland Security and I want to thank our chairman and ranking member for their leadership through the difficult waters of protecting our homeland.

The establishment of the Homeland Security Department on March 1 was only the beginning of an ongoing process in defending our homeland against terrorism, as is this technical corrections bill, which we are debating today.

There are still areas where lines of responsibility need to be clarified and cemented, and certain processes need to be streamlined and made more first responder friendly.

The Homeland Security Act is one which treats the Territories fairly, but there is one issue involving the need to ensure that Indian tribal governments are included amongst the governmental entities that are consulted with respect to activities carried out by the Secretary of the Department of Homeland Security that still needs to be corrected.

I sought unsuccessfully to address this problem during markup of H.R. 1416 in our committee but I expect that it will be resolved successfully when the bill gets over to the other body.

I urge my colleagues to support passage of H.R. 1416.

Mr. LANGEVIN. Mr. Speaker, I rise this morning in support of H.R. 1416. The bill makes various technical corrections to the Homeland Security Act of 2002, which we passed in the wake of the September 11 terrorist attacks to better equip our Nation to prepare for and respond to future disasters, whether natural or man-made.

Since passage of that bill last year, we have come a long way, but there is much work to be done. We now have a Department of Homeland Security, employing close to 200,000 people and assuming the responsibilities of dozens of former Federal agencies. We have sharpened the Nation's focus on the crucial issue of homeland security and given Federal, state, and local officials and first responders the tools to better meet our pressing security needs.

But as the ranking member of the Select Committee on Homeland Security, Mr. TURNER, has said, we must move faster, and we must be stronger. When it comes to protecting our citizens, making progress is simply not enough.

One of the most critical shortcomings facing us is the failure of the Department of Homeland Security's Intelligence Directorate to fulfill its role as the nerve center of the new agency. The intelligence unit was intended to be the very heart of DHS, and its effective operation is indispensable to the success of every other division of the department. This directorate is tasked with collecting and analyzing intelligence information from our nation's intelligence community, and then mapping the perceived threats against our vulnerabilities.

It is this process that should be creating the information on which all of our homeland security decisions are based. Instead, decisions are being made, resources are being allocated and priorities are being set without the benefit of this all-important analysis. Meanwhile, the Intelligence Directorate is woefully unprepared to undertake its responsibilities. We must correct this state of affairs immediately if DHS is ever to operate as intended.

So, Mr. Speaker, while I rise in support of this technical corrections bill, I also want to stress how many more significant issues remain to be addressed. I hope the administration and this Congress will turn their attention to them without delay.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from California (Mr. COX) that the House suspend the rules and pass the bill, H.R. 1416, 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. COX. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 293 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 293

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2555) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with section 501 of House Concurrent Resolution 95 and clause 2 of rule XXI are waived except as follows: sections 514, 521, and 522. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Texas (Mr. FROST), ranking member, pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purposes of debate only.

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, House Resolution 293 is an open rule that provides for the consideration of H.R. 2555, the Fiscal Year 2004 Department of Homeland Security Appropriations Act. The rule provides 1 hour of general debate evenly divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

As we begin the cycle, the 2004 appropriations cycle, I think it is fitting that the first bill that the House considers will be the Department of Homeland Security Appropriations Act. It has been now approaching 2 years since the Nation was severely hurt by the cowardly attacks of September 11, 2001. Appropriate decisive and necessary steps in our defense and our foreign policy have been evident under the leadership of President Bush through successful efforts to rid Afghanistan of al Qaeda and the oppressive Taliban regime and recently to remove a ruthless dictator from power in Iraq. The United States military has performed and succeeded with extraordinary distinction each and every time that it has been called upon.

Now I look forward to the fair debate that is provided under this rule and the eventual passage of this legislation so that we can continue to act as well on local, State and Federal levels to reinforce the security of the United States of America. Funding from this Congress to protect the homeland in this legislation, the underlying legislation, is $29.4 billion, $1 billion over President Bush's request, and this legislation will provide $4.4 billion to the Office of Domestic Preparedness.

I have seen firsthand the work of Federal dollars when supplemented with State and local funding to make our communities safer. In south Florida the local governments and municipalities have taken extensive steps to secure the safety of airports and seaports, utilities and water supplies, but they certainly need the supplemental funding and grants that this bill makes available. With over 7,500 miles of land border and 361 seaports, the local authorities obviously, Mr. Speaker, will always be the front line of defense. First responders are the key to the effective protection of our communities. The Office of Domestic Preparedness has seen an increase in grants and aid of 1,400 percent since September 11, 2001. Through fiscal year 2004, this Congress has enacted or proposed over $17 billion in funding for local emergency work. Although much of the funding goes through State governments for distribution, of those funds 80 percent must be sent, passed on to the local municipalities by the States within 45 days.

□ 1145

To further ensure the safety of the American people, we have instituted very clear guidelines for grant eligibility. Local and State officials must create a multiyear Homeland Security Plan. This will ensure that Congress is not just throwing money at the problem, but working to find a forum in which State and local governments can find comprehensive, long-term solutions.

The Department of Homeland Security is also working diligently to protect our ports of entry. There is $61.7 million in this bill for the Container Security Initiative known as CSI. It is our belief that security at the ports of the United States should really be the last line of defense, if possible, and not the first.

Through the Container Security Initiative, the Bureau of Customs and Border Protection is working with the world's largest ports to secure and screen cargo before it leaves for the United States. We now require 24-hour advanced notice for manifests of cargo ships heading to the United States. This allows the Department of Homeland Security to see what is on a ship before it gets near the coasts of the United States. Through a sophisticated database screening system and ground personnel working with other countries, the Department of Homeland Security is creating a frontline of defense hundreds, and, in many instances, thousands of miles from the United States.

H.R. 2555 also continues funding for the Transportation Security Administration at over $5 billion, $5.172 billion to be exact, $360 million over the President's request, as we continue to work to ensure that airplane travel is as safe as possible.

Finally, Mr. Speaker, this bill addresses the creation of Project Bioshield. In a speech to the Bio 2003 Convention Center and Exhibition yesterday, President George W. Bush stated, ''Project Bioshield will give our scientific leaders greater authority and more flexibility in decisions that may affect our national security. Our labs will be able to hire the right experts, to buy the right equipment, and to speed the construction of the right facilities to accelerate urgently needed discoveries.''

Mr. Speaker, I believe that Project Bioshield is truly one of the most important programs created as a direct result of the threats to the homeland of the United States. Similar to the space race during the decade of the 1960s, the Nation faces a time when it must rely on the great innovations of science and research, in this instance, to keep our communities safe. I am confident that this legislation addresses those needs by providing Project Bioshield with nearly $6 billion over the next 10 years.

H.R. 2555, Mr. Speaker, is very important legislation. It is important that we bring it forth today. I am proud to be able to do so. It is essential to the continued commitment by this Congress for the security and safety of all citizens and residents of the United States and, in fact, to the well-being of our homeland. We bring it forth under a fair and open rule. The legislation was reported out of the Committee on Appropriations by a voice vote. I think it is very appropriate to thank, and I do so, the gentleman from Florida (Chairman YOUNG) and the gentleman from Kentucky (Chairman ROGERS) for their leadership on this important issue; and I urge my colleagues to support both the rule and the underlying legislation.

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

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

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

Mr. FROST. Mr. Speaker, I supported the Department of Homeland Security back when most Republicans still opposed it, and I served on the Select Committee that created the new Department last year, so I expect to vote for this bill to fund the Department on final passage.

But before we get to that point, Members will have the chance to address several serious weaknesses in America's homeland defense system.

First, we need to pass the amendment of the gentleman from Wisconsin (Mr. OBEY), the ranking member of the committee, to increase security at our ports, our airports, and our northern border, and to meet other vital security needs identified by the Bush administration. As it stands, the base bill does not address major holes in homeland defense, and the Obey amendment would plug some of those. And to do it, all we have to do is ask millionaires to take slightly smaller tax breaks than they are already getting next year. It is a reasonable trade: about 200,000 millionaires would give up just $5,000 of the over-$88,000 in tax breaks they are getting next year, and all Americans would get critical homeland security investments.

Unfortunately, the Republican leadership is not willing to ask millionaires to accept an $83,000 tax break next year rather than an $88,000 tax break, so they blocked the Obey amendment.

Fortunately, Mr. Speaker, addressing the second issue does not cost a dime, but it is fundamental to the success of the new Department of Homeland Security. As my colleagues will recall, when the Congress created this powerful new domestic security agency last year, several Members, Republicans as well as Democrats, expressed concern that its powers could be abused and turned against law-abiding American citizens. The former House majority leader, Dick Armey of Texas, was particularly outspoken on this issue.

Unfortunately, we have already seen an example of the danger that concerned Mr. Armey.

And that is why it is absolutely critical that the House act to protect the Department of Homeland Security from ever again being used as the Department of Political Security, as happened just last month.

Mr. Speaker, the Department of Homeland Security became involved in a partisan political dispute last month when it helped Texas Republicans hunt down law-abiding Democratic State legislators. Specifically, the Homeland Security agency charged with tracking terrorists was enlisted to help Texas Republicans trying to track Democratic lawmakers who had stood up to the Republican leadership in Austin. These Democratic legislators violated neither State nor Federal law. They simply used a legal parliamentary tactic, breaking a quorum, in a legislative battle to stop an unprecedented bill to unnecessarily redraw Texas's congressional districts. They employed a legitimate parliamentary tactic that Republicans have used at other times and in other places.

But when Abraham Lincoln broke a quorum in the Illinois legislature in 1839, his political opponents did not have the option of using the Department of Homeland Security to track him down. Neither did the officers of the U.S. Senate in 1988 when Senate Republicans tried to break a quorum.

Today, however, the Department of Homeland Security has enormous domestic intelligence powers. And somehow, on May 12, 2003, America's homeland security resources were employed to help Texas Republicans against their political rivals.

There is really no disputing this, Mr. Speaker. According to a report by the Department's own Inspector General, the Homeland Security Department's Air and Marine Interdiction Coordination Center spent its resources helping the Texas State police and the Texas Republican leaders directing the manhunt trying to find the plane of former Texas Speaker Pete Laney, a Democratic legislature who had flown to Oklahoma, to break the quorum. Many of my colleagues will remember Mr. Laney as the Democrat who introduced George W. Bush to the Nation on the night that he was declared President by the Supreme Court.

If my colleagues can believe it, Mr. Speaker, Homeland Security officials maintain that the 40 minutes they spent assisting in the Texas Republican's manhunt was only a ''minimal'' amount of work. That is a troubling excuse.

If the Department of Homeland Security spent just 1 minute in a domestic political dispute, then it was 1 minute too long. But they spent 40 minutes, which is longer than it took for terrorists to carry out their September 11 attack on the World Trade Center.

Even the office of a Republican member, Representative KEN CALVERT, who represents the Riverside area where the AMICC is based, called to express shock at their involvement, at the Homeland Security Department's involvement in this political matter.

Mr. Speaker, Homeland Security officials also contend that they were tricked into getting involved. The report issued by the Department's Inspector General indicates that ''several individuals'' were instructing the Texas State police officer who got homeland security involved in the manhunt. According to a partial and heavily blacked-out transcript released by the Homeland Security officials, the officer was taking direct orders from a ''State representative.''

The Texas State police refused to identify who was directing them, and they quickly destroyed most of the documents relating to the episode. As a result, Homeland Security referred this case to the Federal Bureau of Investigation, but the FBI says it has no interest in investigating.

Fortunately, some Texas State police field notes survived the document purge and they indicate that Texas Republicans, Governor Rick Perry, State House Speaker Tom Craddick and others, personally instructed the State police during much of the manhunt which was run out of Speaker Craddick's office.

So as my colleagues can see, Mr. Speaker, a lot of disturbing questions remain unanswered about how homeland security resources were used to help the Texas Republicans track their political rivals.

Mr. Speaker, let me be clear: my goal here today is to protect the Department of Homeland Security. Its mission, safeguarding Americans against the threat of terrorism, is too important to risk undermining its credibility with the public.

But even if homeland security officials were misled, and the available facts do not clearly support that excuse, the entire episode still reveals the Department of Homeland Security's dangerous vulnerability to abuse.

Unfortunately, Homeland Security officials have refused to even acknowledge the Department's vulnerability or the threat it poses to their mission. Secretary Ridge has refused to release the complete tapes of the Department's communications with Texas officials or anyone else involved in this episode, despite legitimate requests from numerous Members of Congress, including the ranking members of the House and Senate committees that oversee the Department.

And the Department's Inspector General declared that its own agency's actions were ''appropriate.''

Mr. Speaker, that is so wrong that it is frightening. It is never appropriate to use homeland resources for partisan purposes, no matter how many minutes Homeland Security officials spend helping one political party, or which party they help. On the contrary, it is a dangerous abuse of power, one that threatens the liberties of all Americans, and one that risks public support for the Department of Homeland Security.

That is why the gentleman from Texas (Mr. EDWARDS), a member of the Committee on Appropriations, and the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Select Committee on Homeland Security, submitted amendments to the Committee on Rules last night to ensure that the Department of Homeland Security never again finds itself being used for partisan purposes.

Republicans on the Committee on Rules, however, seem not to understand the seriousness of the Department's vulnerability or the importance of closing this loophole immediately, because they blocked both amendments.

As a result, there is only one way to protect the Department of Homeland Security against political abuse: by opposing the important procedural vote known as the previous question. If we defeat the previous question, I will amend the rule to allow the House to consider these two amendments to restore public trust in America's homeland security officials.

Mr. Speaker, this should not be a partisan issue. I urge my colleagues to put politics aside and oppose the previous question.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. SABO), the ranking member of the Subcommittee on Homeland Security of the Committee on Appropriations.

Mr. SABO. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to the rule for the fiscal year 2004 Homeland Security appropriations bill. The rule should be opposed for several reasons. I will raise two of them.

First, the rule does not protect an amendment I offered that was adopted in committee which concerns the Transportation Security Administration's new computerized airline passenger profile system called CAPPS2.

As proposed, CAPPS2 potentially represents the largest-ever intrusion of the Federal Government into our personal lives. Under it, a Federal agency would mine sensitive personnel data on millions of people for the routine event of flying on an airplane. The privacy and due process concerns are immense. The administration has been working on CAPPS2 since late last year.

□ 1200

But there remains many unanswered questions about it. It deserves far more scrutiny than has been paid so far. I am concerned that TSA may not currently possess the expertise to design a fair and effective passenger screening system, one that catches the people who mean us harm, while protecting those who do not.

I am concerned for law abiding people, especially those with common names and those who move residences often or who do not have well-established credit histories like college students and older Americans. I worry that these honest people will be singled out for further TSA screening, not based on risk but simply because the system is not well designed.

I am concerned that while TSA may set up a mediator to deal with passenger problems, it may be a mediator in name only. There may be no adequate process for passengers to get problems fully resolved because TSA will not control all the data bases it plans to use. If so, once red flagged, will law abiding people be needlessly hassled every time they fly? And to make matters worse, would such mistaken red flags of people who pose no risk cause the passenger and baggage screening systems to become overburdened, thereby raising the risk of lowering it?

My amendment, the CAPPS2 provision in the bill, requires the GAO to review CAPPS2 as it exists today before funding can be obligated on a planned pilot program.

GAO's review would mirror the recommendations put forth by the Secretary of Defense and the Attorney General in the report they submitted on May 20 on DOD's Terrorism Information Awareness Program. It is unclear how many of these recommendations, if any, have been filed by the TSA or by the Department of Homeland Security. I suspect none.

The CAPPS2 provisions in the bill are reasonable and should have been protected in the rule from points of order.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. PENCE), truly one of the most thoughtful and really an extraordinary leader in this House.

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

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

Mr. Speaker, I was here, as you were, and as most of us in this institution were on the day September 11, 2001. It was a sunny day, just really very much like today. All of us were busy about our business, breakfast meetings of that Tuesday, when we received word of what happened in New York and then happened again and then happened within a proximity of these buildings that is still jarring to the memory of most Americans, the causality and the horrific tragedy at the Pentagon.

So this business of homeland security is a very serious and near-to-the-heart business for me. While I am not a member of the Committee on Appropriations that crafted the critical legislation upon which this rule is based, I am a member of the House Committee on the Judiciary's Subcommittee on Crime, Terrorism and Homeland Security; and I was compelled to come to the floor today, Mr. Speaker, and speak about what it is that we are doing in the majority for homeland security. And because there is much in the national debate and much in the debate on this blue and gold carpet that suggests that we are not doing our part. And I am duty-bound to come here today and say that I believe we are. In fact, I helped to draft the legislation that created the new Department of Homeland Security.

And the first priority of that new department, the first of its kind in decades, is to protect our Nation against further terrorist attack. Our first priority, Mr. Speaker, is to ensure the Department is properly funded to fulfill its mission. And I believe the gentleman from Kentucky (Mr. ROGERS) and the members of the subcommittee who prepared this critical appropriations legislation in the area of homeland security have crafted a balanced bill that will keep our homeland safer in an age of growing terrorist threats, will meet those needs of first providers.

The bill recognizes the need for coordination at every level of homeland security. Here are a few examples: We do support State and local first responders, $1.9 billion for an Office of Domestic Preparedness basic formula grants; $500 million for State and local law enforcement terrorism prevention grants; $750 million for firefighters grants; $168 million for emergency management performance grants.

Also, this legislation today will do much to strengthen and protect our borders, porous as they have been, threatening our national security. This bill will provide $9 billion for border protection and related activities, including $129 million for inspection technologies for vehicles and cargo; $61.7 million for container security, and $12.1 million for Customs Trade Partnership Against Terrorism.

We also are enhancing the transportation security, $1.6 billion for passenger screening, $1.2 billion for baggage screening efforts, and the list goes on and on and on.

Mr. Speaker, much will be said today as we proceed through this rule, debate, and through general debate that the majority has not done enough. But there are literally billions and billions of dollars carefully crafted in the area of first responders, protecting our borders, transportation security that argue eloquently and forcefully otherwise.

I urge my colleagues to support the Homeland Security Appropriations Act and this rule. I believe it strikes a balance perfectly between the missions previously under the umbrella of other agencies that now find themselves under this new department.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, Austin, Texas is the proud capital of the Lone Star State. And we say rather modestly there that we are the live music capital of the world. We do so because of an immense amount of talent and a great interest in music in our community. But of late there has been music of a different type.

We have had the Republican majority leader, the gentleman from Texas (Mr. DELAY) trying to call the tune and forcing the leaders of our State to dance to his tune. Indeed, he has spent so much time in Austin arm twisting and cajoling State legislators, huddling a week ago today with the Governor, Lieutenant Governor, and Speaker of Texas House, that just this past Friday he was named by Texas Monthly as one of the 10 worst members of the Texas legislature, not of the United States Congress. It is difficult to determine for which body he is devoting the most time.

Against that backdrop, we consider this legislation. The problem that we face today is that no matter how much

we appropriate for homeland security to protect us against terrorism, if its resources are being diverted to political purposes, such as fulfilling the desires of the gentleman from Texas (Mr. DELAY), then we will not have the protections that the American people deserve. We know that the Department allocated some of its resources to searching for Texas legislators who were involved in legitimate opposition to the DeLay Redistricting Plan.

The Department first assigned a former Republican Congressional candidate from Texas as the Inspector General to conduct an ''independent'' investigation to decide whether the resources had been misallocated. When that gentleman, after his biased and partisan background on this matter was exposed, recused himself, and then another person was appointed, we were assured that she, as an Inspector General at the Department of Homeland Security, would get to the bottom of this.

She assured us she would explore all aspects of the misuse of the Department of Homeland Security, but then produced a report that only looked at the sole issue of the Department's inability to find a cotton farmer from Plainview and where his plane had gone. I hope they are able to do a better job with terrorism than they did in locating an airplane of a former Democratic Speaker of the Texas House. She did not, as promised, conduct a broad examination of misuse of any resources in any part of the Department. Though she told us she would get to the bottom of who required that this investigation be undertaken, she did not do that and her report is silent on whether any federal office holders or their employees were involved.

As with the Department of Justice, the Federal Bureau of Investigation, the United States Attorneys Office, the U.S. Marshals Service, we have received no information in response to repeated requests about how they may have been misused by the gentleman from Texas (Mr. DELAY) or others in this investigation in the State of Texas. In fact, we have a stone wall and we have asked the gentleman from Texas (Mr. DELAY), well known as ''the hammer'' to tear down that stone wall. To date we have nothing but silence and excuses and stonewalling with reference to these matters.

What relevance does that have to today's appropriations request? All the relevance in the world. If the Department of Homeland Security, the U.S. Marshals Service or the Department of Justice can be used for partisan political purposes like this and all it takes is a call from someone with a badge, what is there to prevent a sheriff somewhere in America who wants the Department of Homeland Security to help with a divorce investigation to involve them in this? If there is a local police chief who wants to do some opposition research on the opponent of a local mayor who is up for reelection, who will prevent the Department of Homeland Security from getting involved in that? If you have a local police officer who is suspicious of a political or religious group, what is there to prevent the Department of Homeland Security from responding to his request.

Well, from what we have learned in ''Texasgate'' so far, one would say there is very little and that this episode only reinforces the concerns of many Americans that this Department, well intentioned as it may be, would bring us a new America in which the watchword is ''spy on our neighbors.'' There is very real concern about government resources that should be dedicated to protecting American families and instead could be misused for personal or political gain.

Until we get a full and complete disclosure from all the participants in this scandal, we will not have a complete answer as to whether Americans are adequately protected, and that is the purpose of defeating this motion for the previous question on this rule. In this way, we can attempt to get to the bottom of this and to ensure that the resources are not diverted from where they should be to protect our families, into protecting some political partisan who is trying to reshape America in his image.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 10 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member on the full Committee on Appropriations.

Mr. OBEY. Mr. Speaker, will the Chair notify me when I have used 5 minutes?

The SPEAKER pro tempore (Mr. SIMPSON). The Chair will.

Mr. OBEY. Mr. Speaker, this bill should not even be here at this time. The Committee on Appropriations chairman, the gentleman from Kentucky (Mr. ROGERS), knows his stuff. And he demonstrated that last year when he did very heavy oversight of the Transportation Security Administration, which was totally screwed up at the time.

The problem we have with this bill being before us today is that this new agency was extremely reluctant to provide useful information to this Congress so that we could make intelligent judgments about how to allocate money to this new agency. And we have a specific problem, because the reorganization bill that passed with much ballyhoo last year is not what it is cracked up to be. Before the passage of that legislation we had 133 agencies that had something to do with homeland security. And what the bill finally did was to take 22 of those agencies, not including the FBI and the CIA, the two gut agencies in our fight against terrorism, so they took 22 agencies, put them in the department that they called ''Homeland Security,'' and we are supposed to stand up and sing Hosannas. The problem is that left 111 other agencies uncoordinated, outside the tent.

So we had that basic confusion to begin with, and now we have even more confusion at the agency. This new agency, for instance, we are told still has not prepared a telephone directory for its employees so people can reach who they are supposed to reach if they have a problem.

Now, there is nothing wrong with this bill if you think it is perfectly okay to proceed on the status quo, because this bill provides a meager 1.8 percent increase over last year's budget for the agencies meant to protect us against terrorism. But because of inflation that means there will be on a per capita basis less security provided to each and every citizen of this country this year than was the case last year. And yet we hear many stories about deficiencies in securing this country.

□ 1215

Example, we had over 60 uncleared aircraft that flew from Canada into the United States last year. We have no assurance about what was in those planes or who was in those planes. We have $4 billion that the Coast Guard has told us that we need to provide over time to our port facilities for security purposes. We are only inspecting 2 percent of all of the cargoes that come into our national ports; and we have what was supposed to be the brain of the agency, the information analysis division, having a terrible time getting off the ground after the reorganization.

So I want to put the House on notice now. I intend to offer an amendment that would add $1 billion to key security functions. I would add $400 million for port security grants. The Coast Guard has told us that we need $4.4 billion, and this will speed up that timetable a bit. My amendment would also bring to 25 percent the Federal contribution of port facility security needs. That leaves a huge percentage of the bill still in local hands. If we do not do this, it will take close to 20 years before we are providing half the cost of meeting that security. That is a little bit too long to wait, I think.

Thirdly, we would add $100 million to the Coast Guard to effectively implement the Maritime Security Administration Act, which was created in order to improve our ability to analyze vessel threat information. And my amendment would also provide $100 million to increase the number of Customs inspectors now inspecting container ships into the United States. This would allow 1,300 additional Customs inspectors to be brought on. That is still a drop in the bucket in comparison to what they need.

We would also provide $200 million to improve security on the northern borders, some 5,500 miles long; and we have virtually no capacity to cover large sections of it. During Operation Liberty Shield, there were 10 aircraft that came across that border without a

clearance, even though that border was being patrolled by air for 30 straight days. I would say that is a problem.

People will say how do we intend to pay for this amendment. We would intend to pay for the amendment by reducing the size of the tax cut that this Congress just provided for people who make over $1 million a year. We would reduce that average tax cut from $88,300 to $83,300. That is hardly crippling the most well-off people in this country, but that tiny adjustment in their windfall would enable us to significantly enhance the security of the United States. It would inure to their benefit as well as citizens who do not get that fat a tax cut. I think it is perfectly rational.

I know some people will say, ''Oh my goodness, you must not do that because you will be invading the jurisdiction of another committee.'' I would point out that if you go back just a few months ago on the omnibus appropriation bill, we had a whole slew of proposals that the House leadership insisted that we put into that appropriation bill. Most of those items were under the jurisdiction of the Committee on Ways and Means. So all we are doing is what the leadership of this House itself did last year, and it seems to me that we ought to put the welfare of the country, ahead of what Dick Bolling, my mentor from Missouri, described years ago as being jurisdictional dung hill politics. We should not worry about jurisdiction. We should worry about what kind of a job we do on the substantive level.

So basically, Mr. Speaker, the Committee on Rules did not allow my amendment to be made in order. What is happening is this: when the budget resolution process was first established by the Congress, the purpose was to make Congress face up to choices and to recognize what the trade-offs would be when you made those choices; but the way the House leadership is running the budget process today, they are guaranteeing that there is never any linkage between actions and consequences.

What this House did on the budget resolution, what this House did on the tax bill has now dictated to this committee the limitations under which we bring this bill to the floor, and that is why this bill is woefully inadequate in terms of meeting the security interests and needs of the United States.

So I make no apology for trying to do something a little different in order to try to get more resources into this area. I think any American concerned with our security would understand why we do it; and I think it is about time that we demonstrate that there are costs, there are costs to the tax action that was just taken in Congress. Those costs mean that we have less money available to make the crucial investments we need in homeland security and, for that matter, also health care, education, science, you name it.

What I am trying to do is to demonstrate what those real trade-offs are, even though it is apparent that the majority leadership in the House wants to hide those trade-offs from the American people. I think the public has a right to know what services they are going to be denied on the security front because of that tax action.

I thank the gentleman for his time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Texas (Mr. BARTON).

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

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I really did not plan to speak on this bill, but some of my good friends on the minority side from Texas have been up talking about alleged abuse of funding or power in terms of homeland security officials attempting to find some missing State legislators who went down to Austin and then left Austin and went up to Ardmore, Oklahoma, hung out at the Holiday Inn for a couple of days while the Texas legislature was considering a redistricting bill for Congress.

The Inspector General of the homeland security has done an investigation of this allegation and found no substance to it, no merit. As it turns out, the information in terms of the tail number and things like that are available to any citizen in this country who wishes to call the FAA. If they have a tail number, and if that airplane is in the air, FAA will tell a person where that particular airplane is. That is public information unless they have changed the protocol in the last 2 or 3 weeks, and is available to anybody who wishes to try to track where somebody is, that is, if they have the tail number.

What happened down in Austin was that the Texas House was going to move a bill to rectify past gerrymanders of the congressional lines that go back over 30 years, and some of the Democratic State legislators decided that they did not want to be part of it; and under the Texas Constitution, it requires a two-thirds vote to have a quorum. Enough legislators left town on an organized basis, went up to Oklahoma and hung out until the legislature session had ended. Well, that is according to the rules and may be good press, but it is not going to work in the long term because the Governor called a special session that is going to start in a couple of weeks, and the lines are going to be redrawn to verify the voting wishes of the people of Texas, not of some of the political polls in the minority party.

So I just wanted to come over and set the record straight. There has been no abuse of power. There has been no illegal use of funds. There has been nothing like that.

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

Mr. BARTON of Texas. I yield to the gentleman from Austin, briefly.

Mr. DOGGETT. Mr. Speaker, is the gentleman aware that the Inspector General of the Department of Homeland Security has not reported on any aspect of whether homeland security resources were used other than the aircraft and has specifically declined to report on which individuals may have asked that homeland security resources be diverted for this purpose? In other words, the investigation is incomplete.

Mr. BARTON of Texas. Mr. Speaker, I appreciate my good friend from Austin raising that question.

My information is that the Inspector General has done an investigation. There is not an issue there. I think some State officials when this, what I would call a ''bug out'' to Ardmore, the gentleman may have a different term for it, he might call it something differently, but when that happened, the Governor and the Speaker of the House, as is their authority under the Texas law, sought to bring the recalcitrant lawmakers back to the legislature so there would be a quorum; and they touched bases with a number of State and Federal officials, and some of the Federal officials made a couple of phone calls, but there was no abuse of power and nothing illegal that has happened, and this is what the investigation has said.

Again, I am here as a Republican, a Member of the majority party. I have got no problem if in Austin certain legislators do not want to report for a quorum. That is something that we have the authority to do here; and as my colleague knows, the Texas constitution requires a two-thirds membership present if there is a question of the quorum. So we do not have a problem with that, but I think the State officials in Austin had every right to try to find where those legislators went and try to get them back if they could get them back so there would be a quorum, and there is nothing illegal about that, and there is nothing unethical about that, and there is nothing improper about that.

So I just kind of wanted to set the record straight. It may be good political theater, but there is no illegality that has gone on and the Inspector General said that.

Mr. FROST. Mr. Speaker, how much time is remaining on each side?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. FROST) has 6 minutes remaining. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 13 minutes remaining.

Mr. FROST. Mr. Speaker, I yield 15 seconds to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, just to complete the record, it is very clear that the office of Inspector General did not explore anything other than one aircraft. They did not explore the other misuse of the response of the Department of Homeland Security; and, second, it is clear that they failed to provide or even pursue evidence on the

question of which Federal officials may have asked for this misappropriation of resources. Finally, to complete the record, history shows that it was Abraham Lincoln who was among the first to use this tactic of defeating a quorum.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. HAYWORTH), my good friend.

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Florida for yielding me this time, and I would rise in support of this rule.

It has been interesting to hear the debate, if we could characterize it as that, thus far. We hear about an internal redistricting dispute within the State of Texas. We have the other friends predictably come to this well and somehow try to trot out the shopworn thesis that the people's economic security at home should be invalidated by command and control spending here in Washington; and undergirding all this, Mr. Speaker, is this simple proposition for the left: it is never enough.

Indeed, if we take the debate and the dispute as it is here and in so many different areas, our same friends who come to us time and again on different issues and would have the American people believe that they are the champions of eliminating the deficit, that they are for fiscal responsibility, when it comes to spending programs, and perhaps this one especially, they begin from the thesis that there is never enough spending, not that the considerable resources that we will bring to bear in this appropriation, billions of dollars, can be utilized in judicious, concentrated fashion to bring about the desired ends. No, no.

Mr. Speaker, the resounding chorus from the left is, it is never enough, with an interesting variation. If one succeeds in America, they are to be singled out for punishment for succeeding, for paying their taxes; we want to reinstitute taxes on them because their economic security or the economic security they provide to workers they hire in small business should be invalidated for the class warfare scenario that states somehow they are unworthy because they succeed.

So my friends will offer an amendment, I suppose, later when we move this on to raise taxes; and I would suggest, Mr. Speaker, to this House and to my colleagues, in so doing, they are denying what is obvious and that is that there is a link between economic security for all Americans and homeland security for all Americans.

Just as we understand the best social program on Earth is a job, we get there not from the command and control of the left who believe the answer is always in bureaucratically driven jobs. We get there by allowing people to use their money to save, spend and invest to create new jobs in the private sector; and yes, we maintain a judicious and concentrated use of funds to protect our homeland and to protect the American people.

□ 1230

But again, Mr. Speaker, remember what the resounding chorus will be from the left: It is never enough. And there are myriad uses for your money over and beyond the saving, spending and investing of same in your family's economic security.

You see, I do not believe, Mr. Speaker, these two goals are mutually exclusive. I believe the American people need to keep more of their hard-earned money to save, spend, and invest, because I believe it will lead to higher employment and economic gains. But I also believe the bill we will consider today stands up for national security, makes a difference for this American Nation, and so I would ask my colleagues to join with me in voting in the affirmative.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wish that this debate was simply about making sure that the homeland is secure. I rise in opposition to this rule and associate myself with the words of the ranking member of this committee, the gentleman from Wisconsin (Mr. OBEY).

This is not about stealing hard-earned dollars from taxpayers, it is about providing for the safety of Americans and taking a few thousand dollars from the million-dollar earners that the big tax bust this Republican administration has given, where those making $1 million will get a whopping $90,000 check almost, merely taking a few thousand from that paycheck and providing Americans with the kind of security they deserve.

Frankly, Mr. Speaker, while we speak on this floor with two or three Members, Rome burns, terrorists are planning, cells that terrorists have are in the United States, terrorists are walking across the border, and terrorism is much rampant around the United States and around the world. Why? Because this administration is doing nothing about it.

So I come to the floor today to talk about making sure that Homeland Security protects neighborhoods and communities and ports and cities and school districts.

This is not a joke. This is not about a mere political question in the State of Texas where those who did not want to be struck up and hung by the Republican Party used their constitutional rights and left the floor of the House. This is about an OIG report that comes to the United States Congress with all these black marks in it. There is no truth in these reports. They are not telling us the truth. They are hiding the truth. And yet the people on this floor and the people who run these committees refuse to have an investigation to find out what the truth is.

Mr. Speaker, we need an amendment that has been rejected, that simply tells us to make sure that no homeland security funds can be used for the surveillance powers of the Department of Homeland Security for purposes not related to protecting homeland security. That is all we are asking. I would say that this is a rule that should be rejected.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas (Mr. CULBERSON).

Mr. CULBERSON. Mr. Speaker, with some personal experience, having served 14 years in the Texas Legislature, and having many friends who serve in the Texas House, and having just been elected in the 2000 election, I felt compelled to come to the floor and offer some personal perspective on the, I think, highly improper and blatant partisan attacks that the Democrats are making that have absolutely nothing to do with homeland security.

The Inspector General has already made a report on whatever allegations the Democrats are making. The Inspector General has already determined that everything that was done was properly done. The majority leader's office has said repeatedly, and this is confirmed by the Inspector General's report, that there was no contact between the majority leader's office and the Department of Homeland Security. This is an irrelevant distraction from the core important work that this Congress and the Nation must do in protecting our borders, in preventing people from coming across the border who might pose a threat to the security of this Nation.

The Democrats in Texas who walked off the job in the regular session of the legislature did so in a way that the public in Texas, the people of Texas recognized was improper; that it was wrong for them to walk off. And in fact it is incredible to me that the Democrats who walked off the job did so in a way that completely defied the majority will of the people of Texas.

Since Reconstruction, since 1876, the Democrats have controlled the State of Texas. We just elected a new Republican majority to the Texas House. The Texas Senate is now Republican. Our Governor is Republican. The Federal courts have controlled our prisons for up to 25 years. I led the effort to regain control over our Texas prison system from Federal Judge William Wayne Justice. Our State courts control our school finance system. Federal courts control our mental health hospitals in Texas. And it is entirely proper, in fact it is essential under our constitutional republican form of government that the people control their institutions, that the people control the way their congressional districts are drawn, and a majority of the people of Texas elected a Republican Legislature to pass Republican legislation.

Now, I can attest, as the Republican whip in the Texas House, that I still have tread marks on my back from being run over every day by Ann Richards and Speaker Pete Laney. I always

got right back up and dove into the fighting, fighting the tax increases the Democrats passed repeatedly in Texas, fighting Ann Richards and the Democrats' creation of the first income tax on businesses in Texas. I got right back up after they passed those new tax increases, and I did not give up and walk out. It is a part of the process that you make your best argument in the legislative body, and if you lose, that is majority rule.

I think it is also very instructive that the Democrats chose to walk out to protect their own political hides. They did not walk out to protect some minority group or some special interest group they are so fond of. They walked out to protect their own political hide. It is very revealing for the people of the United States to see that the Democrats choose to pick up this kind of dust, to make this sort of distraction, to walk out and shut down the entire legislative process to protect their own political power, to protect their own political hides rather than to go and walk out or make this big statement in defense of some group or some budget cut that they might have disagreed with.

I think it is entirely appropriate that the Inspector General's report has shown that everything that was done was done so properly. And also, the Speaker of the House has authority in Texas, as the Speaker does here, to place a call in the House and use the law enforcement authority at his disposal to find members, to locate them and bring them back on the job. This House Chamber has been locked down before to keep Members in the Chamber so they would do their job, and it has been done several times in Texas.

In fact, while I was there, the Democrats did walk out once in protest over failure of the legislature to create a pre-kindergarten program, I think in 1991. But again, here they walked out to protect their own political skins. I urge the House to vote against this amendment.

Mr. FROST. I would inquire as to how much time remains, Mr. Speaker.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. FROST) has 3¾ minutes remaining and the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 5 minutes remaining.

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

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SWEENEY).

Mr. SWEENEY. Mr. Speaker, I thank the gentleman for yielding me this time, and I had no intention of coming to the floor and speaking on this rule. I am a member of the Select Committee on Homeland Security, and I assume there will be plenty of time this afternoon for me to give my appropriate comments. But I have to just say to my colleagues that I am quite frustrated. I am a New Yorker, I am an American, and I lost friends in the World Trade Center on September 11. What I would like to say to my friends on the other side is, let us move on. Let us not use any more distractions in this process.

We waited a year, a year, to create the Department of Homeland Security because the other body, in its leadership from the Democratic Party, decided a year ago that they would rather play politics than go to the business of the people and go to the business of creating this Department of Homeland Security.

I listened to the esteemed ranking member of the Committee on Appropriations, the gentleman from Wisconsin (Mr. OBEY), on the floor a little while ago. And I have to say that I have great disagreement on policy, but I appreciate and respect the fact that he is coming to this floor and talking about the substance of this bill and the issue facing the American people on this most critical issue.

Mr. Speaker, I would ask my friends, and implore upon my friends to allow us to move on and let us do the business of the people. That is what leadership is about, and that is what they expect of us.

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

Mr. Speaker, it is unfortunate that Members on the other side of the aisle and their colleagues in Texas sought to misuse Federal resources. Now, the Inspector General said, oh, but it was only 40 minutes, so it is no big deal. I would remind the gentleman on the other side of the aisle that the attack on the World Trade Center occurred in less than 40 minutes, and so Republicans in Texas sought to divert homeland security resources for 40 minutes.

What did they also seek to do? They also contacted the Department of Justice, tried to involve the FBI, tried to involve the U.S. Marshals Service, tried to involve the U.S. Attorney's Office in Texas. This was a blatant misuse of Federal resources, even if it were one minute. But it was not just one minute, and it was not just the Department of Homeland Security. It was other agencies of the Federal Government. They know it. It should never have happened and, hopefully, it will never happen again.

I urge Members to vote ''no'' on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will make in order two very important amendments that were submitted to the Committee on Rules last night and rejected by the Republican majority. Both of these amendments seek to protect the Department of Homeland Security against the type of political abuse it suffered when it ended up helping Texas Republicans hunt down their political rivals in a legislative dispute.

The first amendment, by the gentleman from Texas (Mr. EDWARDS), a member of the Committee on Appropriations, would require the Secretary of the Department of Homeland Security to implement written procedures for the use of personnel and resources for any nonemergency use of homeland security services; and would prohibit the Office of Air and Marine Interdiction of the Bureau of Immigration and Customs Enforcement from supporting Federal, State or local law enforcement or humanitarian efforts until that is done.

The second amendment, by the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Department of Homeland Security, would prohibit the Department from using funds for political purposes or for any other purpose not relating to protecting homeland security.

I am confident that all Americans and all Members of this House support this sentiment expressed in these two amendments. So I urge Members on both sides of the aisle to vote ''no'' on the previous question. Let me emphasize a ''no'' vote will not stop the House from taking up the Homeland Security appropriations bill. It will not prevent other amendments from being offered under the open rule. However a ''yes'' vote will preclude the House from considering these two very important amendments that are critical to protecting the Department of Homeland Security's ability to protect Americans against terrorism.

Also, assuming that the previous question passes, there will then be a vote on the rule, and I would urge Members at that point to vote against the rule so that the gentleman from Wisconsin (Mr. OBEY) will have the opportunity to offer his amendment to put money back in this legislation to do the things that should have been done originally.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

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

There was no objection.

Mr. FROST. Again, Mr. Speaker, let me emphasize that to protect the Department of Homeland Security against political abuse, vote ''no'' on the previous question.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are very proud of the legislation being brought forth today by the Committee on Appropriations. I know that the chairman, the gentleman from Kentucky (Mr. ROGERS), worked long and hard on this bill and deserves commendation by all of us as well as all the other Members that have worked so hard on this legislation.

Mr. Speaker, there are $29.4 billion in this underlying legislation for the Department of Homeland Security. That includes $4.4 billion for the Office of

Domestic Preparedness. Now, the resources that the Congress is appropriating for the Office of Domestic Preparedness constitutes an increase of 1,400 percent for that critically important issue since September 11, 2001. The Congress is doing its job.

□ 1245

I think all of us should and I am sure do praise the work of the Subcommittee on Infrastructure and Border Security, that has permitted them to bring forth this legislation. There is a very important initiative of the many new initiatives to protect the Nation that is being funded by this legislation, the Container Security Initiative, so that commerce, trade that we see in all the ports of America, those containers sent from abroad, that they be inspected before they leave the ports that they come from so that the security of the Nation is significantly augmented in that fashion. That Container Security Initiative is funded in this bill.

There are many other reasons why we should pass this legislation. I feel very proud of the underlying legislation and the fact that we are moving forward to increase the security of the American people. I urge support for the underlying legislation and this totally fair, open rule.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES. 293 RULE ON H.R. 2555: FISCAL YEAR 2004 HOMELAND SECURITY APPROPRIATIONS

At the end of the resolution, add the following:

''SEC. 2. Notwithstanding any other provision of this resolution, the amendments printed in section 3 shall be in order without intervention of any point of order and before any other amendment if offered by the Member designated. Each amendment may be offered only in the order specified in section 3. The amendments are not subject to amendment except for pro forma amendments or to a demand for a division of the question in the committee of the whole or in the House.

SEC. 3. The amendments referred to in section 2 are as follows:

(1) Amendment by Representative Edward of Texas or a designee:

At the end of the bill (before the short title), insert the following:

LIMITATION ON USE OF PERSONNEL AND RESOURCES OF THE OFFICE OF AIR AND MARINE INTERDICTION

SEC. ____. (a) Congress finds that in May 2003 personnel and resources of the Office of Air and Marine Interdiction of the Bureau of Immigration and Customs Enforcement were utilized in an improper manner to locate legislators of the State of Texas who were not in violation of any Federal, State, or local law, or in need of any emergency humanitarian assistance.

(b) None of the funds made available in this Act may be used to provide personnel or resources of the Office of Air and Marine Interdiction of the Bureau of Immigration and Customs Enforcement to support Federal, State, or local law enforcement or humanitarian efforts until the Secretary of Homeland Security implements written procedures to provide such personnel or resources for such purposes. The limitation of the preceding sentence shall not apply with respect to the use of funds for a bona fide emergency situation.

(2) Amendment by Representative JACKSON-LEE of Texas or a designee:

At the end of the bill (preceding the short title) insert the following:

SEC. ____. None of the funds made available in this Act may be used for political purposes or any other purpose not related to protecting homeland security, including for—

(1) use of the surveillance powers of the Department of Homeland Security, for a purpose not related to protecting homeland security, to—

(A) tap personal or business telephones; or

(B) otherwise monitor or record conversations or activity in any home, office, or other location; or

(2) use of the investigative powers of the Department of Homeland Security, for a purpose not related to protecting homeland security, to track automobiles, airplanes, or other modes of transportation.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adopting the resolution, if ordered, and on the motions to suspend the rules relating to H.R. 923 and H.R. 1460.

The vote on H.R. 1416 will be taken later today.

The vote was taken by electronic device, and there were—yeas 221, nays 196, not voting 17, as follows:

[Roll No. 301]

YEAS—221

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—196

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo

Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—17

Ackerman
Boucher
Brown, Corrine
Brown-Waite, Ginny
Cannon
Cardoza
Conyers
Cramer
Cubin
Feeney
Gephardt
Hulshof
Matsui
Ryun (KS)
Smith (WA)
Waters
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1306

Mrs. MCCARTHY of New York and Mrs. CAPPS changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this vote and the remainder in this series will be conducted as 5-minute votes.

The vote was taken by electronic device, and there were—ayes 220, noes 197, not voting 17, as follows:

[Roll No. 302]

AYES—220

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—197

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

NOT VOTING—17

Ackerman
Boucher
Brown, Corrine
Brown-Waite, Ginny
Carter
Conyers
Cramer
Cubin
Duncan
Feeney
Gephardt
Hulshof
Ryun (KS)
Smith (WA)
Visclosky
Waters
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1313

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WICKER. Mr. Speaker, on rollcall Nos. 301 and 302 I was inadvertently detained. Had I been present, I would have voted ''yea.''

PREMIER CERTIFIED LENDERS PROGRAM IMPROVEMENT ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 923, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. MANZULLO) that the House suspend the rules and pass the bill, H.R. 923, 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 416, nays 3, not voting 15, as follows:

[Roll No. 303]

YEAS—416

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette

Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—3

Duncan
Flake
Paul

NOT VOTING—15

Ackerman
Brown, Corrine
Brown-Waite, Ginny
Burton (IN)
Conyers
Cramer
Cubin
Feeney
Gephardt
Hulshof
Larson (CT)
Ryun (KS)
Smith (WA)
Weller
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1319

Mr. UDALL of New Mexico changed his vote from ''nay'' to ''yea.''

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS ENTREPRENEURSHIP AND BENEFITS IMPROVEMENT ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1460, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1460, 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 421, nays 0, not voting 13, as follows:

[Roll No. 304]

YEAS—421

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns

Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

Ackerman
Brown, Corrine
Brown-Waite, Ginny
Conyers
Cramer
Cubin
Feeney
Gephardt
Granger
Hulshof
Radanovich
Ryun (KS)
Smith (WA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1331

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

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to amend title 38, United States Code, to improve education and entrepreneurship benefits, housing benefits, and certain other benefits for veterans, and for other purposes.''.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RYUN of Kansas. Mr. Speaker, unfortunately, I missed four votes in the House of Representatives on June 24, 2003. Had I been in attendance I would have made the following votes:

The Previous Question on H.R. 293, the Rule for H.R. 2555, Homeland Security Appropriations Act for FY04. Had I been in attendance, I would have voted ''yea.''

Passage of H. Res, 293, Rule for H.R. 2555, Homeland Security Appropriations Act for FY04. Had I been in attendance, I would have voted ''yea.''

Passage of H.R. 923, Premier Certified Lenders Program Improvement Act of 2003. Had I been in attendance, I would have voted ''yea.''

Passage of H.R. 1460, Veterans Entrepreneurship Act of 2003. Had I been in attendance, I would have voted ''yea.''

GENERAL LEAVE

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may include tabular and extraneous material on H.R. 2555.

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

There was no objection.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. Pursuant to House Resolution 293 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2555.

□ 1334

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2555) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) each will control 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a historic day. Only 4 months after the Department of Homeland Security was stood up, we now consider in the Congress the very first ever Homeland Security appropriations bill on the House floor.

The creation of the Department is by far the largest reorganization of the Federal Government in its history. Mr. Chairman, 180,000 employees, 22 security-related agencies merged into a single unit, agencies as diverse as the new Transportation Security Administration, FEMA, the Customs Service, the Secret Service, the Coast Guard, and some 18 other agencies throughout the government.

But, Mr. Chairman, I want to spend a couple of minutes talking about the breadth of the problem that we face.

On our borders, we have to protect ourselves: 2,000 miles of border with Mexico; 5,500 miles of border with Canada. There are 9,500 miles of shoreline. We have 157 ports of entry, 361 seaports. There are 440 million visitors who arrive in our country by land, sea, and air each year. There are 118 million vehicles that come here, 11 million of them trucks; 2.5 million railcars; and 17 million cargo containers that cross through our ports every year.

In transportation, there are some 768,000 commercial flights that enter the U.S. at 429 commercial airports, carrying some 635 million passengers a year. We have 18,000 general aviation airports. We have 143,000 miles of freight railways, 3.9 million miles of highways, and 550 major public transportation systems throughout our country. There are 590,000 bridges. There are 526,000 interstate trucking companies, 43,000 of them certified to carry hazardous materials.

We have 150 oil refineries, 86,000 miles of crude oil pipelines, 278,000 miles of natural gas pipelines. There are 66,000 chemical and hazardous materials plants. There are 1,800 Federal reservoirs. There are 9,300 power plants, including 104 nuclear, in our country.

And then there are all sorts of high-target, high-risk symbols of our Nation. We are speaking from one even as I talk now: the Capitol. We have the White House, the Washington Monument, the Lincoln Memorial, the Statue of Liberty, the St. Louis Arch, the Golden Gate Bridge, and on and on and on, including some 463 skyscrapers in our land.

I mention those facts, Mr. Chairman, to highlight the enormous challenge that we face as we begin to tackle our homeland security needs. Protecting American citizens from harm is the first and foremost duty of the Federal Government, and this awesome task largely falls upon the shoulders of the Department of Homeland Security.

This bill, Mr. Chairman, provides $29.4 billion for the Department. That is an increase of just over $1 billion above what we were asked by the President, and $535 million more than the current-year levels.

The bill recognizes that while the Department of Homeland Security has the lead in developing our national Homeland Security strategy, implementation of that strategy requires the active participation of State and local governments and the private sector.

When it comes down to it, homeland security, Mr. Chairman, is essentially hometown security; and it requires the active engagement of all Americans and all branches of government.

The bill before us today recognizes the role each stakeholder must play in this big mission. It funds not only the Department's first full year of operations, but also anticipated efforts of State and local governments and the private sector.

As we debate this bill today, I urge my colleagues to remember everything that has been accomplished since September 11. While some might suggest that we are not doing enough, I would say we are making tremendous progress in our war on terror. The glass is not half empty; it is half full.

Since September 11, we have provided $75.8 billion for homeland security funding across the entire government. For these 22 agencies that now make up the new Department of Homeland Security, we have provided $43.9 billion through fiscal year 2003; and in this bill, we add an additional $29.4 billion, bringing the total provided to the Department to $73.3 billion for fiscal years 2002 through 2004.

Protecting the Nation's borders is our first line of defense against terrorism. We include in the bill a total of $9 billion for border protection and related activities. That is an increase of $400 million over the current enacted levels, including $2 billion for the U.S.

Coast Guard homeland security activities. This bill makes innovative technology and capital investments a priority, recognizing that our borders will only be secure when we use a combination of people and technology.

Since September 11, 5,400 inspectors, special agents, and Border Patrol agents have been added to our borders, increasing coverage at ports by 25 percent. An additional 4,100 Coast Guard personnel have been hired to protect our ports and our waterways, increasing the intensity and number of inspections at ports of entry. We will continue to inspect 100 percent of all high-threat cargo and high-threat vessels coming into our waters.

We include $388 million for port security grants. The $100 million included in this bill is another down payment to secure critical port facilities, bringing the total funding since 9–11 to $488 million.

Since September 11, we have provided $263 million for technology, including radiation detectors for our ports and nonintrusive inspection technologies for cargo screening. These technologies have been deployed at our busiest land and sea ports, including Miami, Los Angeles, and Newark; and in this bill we add another $129 million for those technologies, bringing the total since 9–11 to $392 million.

We provide $60 million for the Customs Container Security Initiative, fully funding that effort since its inception. We include $62 million for that program, bringing the total funding to $122 million to support the participation of nearly all of the 20 foreign megaports from which we receive practically all of our cargo. This initiative targets high-threat cargo before it comes into our ports.

We also place in the bill a high priority on funding our State and local first responders. I believe it is essential that our State and local governments have the resources to address the needs of our hometowns. We include $4.4 billion for our first responders, law enforcement officers, firefighters, and emergency response personnel. And since September 11, Mr. Chairman, I want all of my colleagues to hear this: since September 11, the Congress has appropriated $20.8 billion in assistance to our State and local governments for terrorism prevention and preparedness.

□ 1345

That, Mr. Chairman, is an increase of 1,000 percent before 9/11. Despite that significant investment, there are concerns about how and when this money gets to both State and local organizations. I agree in some instances it is taking too long for those funds to get there and the complex process is complicated and cumbersome. We tried to address that in this bill. I am optimistic that this issue will be addressed as part of the final bill that is sent to the President for his signature.

Enhancing transportation security is a continuing concern. Since 9/11 we have provided a total of $10.38 billion for passenger safety through the Transportation Security Administration. Passenger screening, baggage screening, cargo screening, an additional $5.172 billion is included in this bill. Since September 11, $1.5 billion has been spent on explosive and trace detection systems, including the development, procurement and installation in our airports. We include in this bill an additional $335 million for the purchase and installation of these systems, as well as $50 million for air cargo safety and $40 million for research on next generation technologies at our airports.

Science and technology are critical to improving security, increasing efficiency and reducing costs. We include $900 million for science and technology, including $60 million, Mr. Chairman, to design develop and test any missile devices for our commercial aircraft. Other funds are targeted at research, development and rapid deployment of innovative technologies that our universities and other public and private organizations are already developing.

Lastly, the bill includes $5.6 billion over 10 years to encourage commercial development and production of medical countermeasures against bioterrorism, the so-called BioShield program. Funding in fiscal year 2004 is limited to $890 million. These funds will remove the barriers to develop next generation treatment for potential bioterror agents and will encourage the private sector to conduct the necessary research to counter bioterror threats.

Mr. Chairman, the bill before us today is the first Department of Homeland Security appropriations bill ever considered by these bodies. I believe it presents a well-balanced approach to tackling the job ahead. It invests in people. We invest in technology. We invest in partnerships. It funds efforts to assess our vulnerabilities and capitalize on our assets.

A lot of people would want us to spend tons and tons of more money, and believe me, if we thought it was useful to do so we would have no compunction against doing that. But there has got to be somewhere where we sensibly allocate our funds to our vulnerabilities and spend those dollars, but we should not spend money just for throwing it away.

I believe this bill is responsible, and I urge my colleagues to support this historic measure.

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

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

Mr. Chairman, first let me congratulate the gentleman from Kentucky (Chairman ROGERS) on the first homeland security bill and congratulate him on a job well done and also add my thanks to the staff, both minority and majority, for their hard work in putting this bill together. We really do appreciate their efforts.

Mr. Chairman, I rise in support of the fiscal year 2004 Homeland Security appropriations bill. But I must say that in many ways I think it is premature for this bill to be the first appropriations measure brought to the floor. The Department is in serious disarray, and the committee received very little support from the Department in putting together this bill and report. In fact, many of the agencies transferred to the Department were prevented by the Department from providing responsive information to the subcommittee.

Hearings could not even be arranged for four of the largest and most important of the Department's 11 major agencies. Those four agencies constitutes $9 billion, or 31 percent, of the Department's total budget. And I must say that that is an additional reason for thanking the staff, both minority and majority of this committee, for putting a bill together with the lack of information coming from the Department.

In some ways the current state of the Department of Homeland Security reminds me of the situation we faced 1 year ago and still face today with TSA. The management failures of TSA are well known, and I fear that the Department of Homeland Security is going down the same path. The Department so far has failed to develop a useful road map of its security goals for the Nation. If anyone at the Department has a strategy for basic objectives, such as securing the northern border, tracking all vessels entering American waters, or ensuring that airline cargo is effectively screened, no one has been willing to share that information with us. I find that disturbing.

If the Department will not define its goals, it is up to the Congress to do them. This bill provides $29.4 billion in discretionary budget authority for the Department of Homeland Security. This is only $536 million, or 1.8 percent, above fiscal 2003 funding. The gentleman from Kentucky (Chairman ROGERS) has managed to fill some of the most glaring funding gaps contained in President Bush's 2004 budget, specifically funding for first responder programs contained in this bill. However, the tightness in the budget resolution restricts this bill from doing more to protect our borders, secure our ports and other critical infrastructure. This does not serve our Nation well.

In conclusion, while I support the bill overall, I have many concerns with the current abilities, or rather inabilities of the Department of Homeland Security to adequately address obvious homeland security gaps.

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

The CHAIRMAN. Does the gentleman from Tennessee (Mr. WAMP) seek unanimous consent to control the time of the gentleman from Kentucky (Mr. ROGERS)?

Mr. WAMP. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. WAMP. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the full Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I appreciate the gentleman yielding time.

I rise in strong support of the bill. Mr. Chairman, as you know, when we made the recommendation to reorganize the Committee on Appropriations, it was a major reorganization, the biggest reorganization in many, many years, and it was the right thing to do. When I selected the gentleman from Kentucky (Chairman ROGERS) to chair this subcommittee, it was the right choice. He has done a tremendous job in understanding the issues and in bringing together all of the various agencies that are involved in homeland security.

This is a good bill. There are some who will say that it is too much spending, and others who will say that it is not enough. You are going to hear that on all 13 appropriations bills. I tend to think we are just about in the right place on all of the bills.

Today we are focused on homeland security. On Friday we will consider the Military Construction appropriations bill. We have already marked up in addition to Homeland Security and Military Construction, after about a 4-week delay in getting approval on the budgetary levels, the Interior, Agriculture, Labor-HHS, Legislative and Defense appropriations bills in subcommittee.

Tomorrow we will mark up the Labor-HHS bill, the Interior bill, and the Agriculture appropriations bill in the full committee.

On Thursday we will mark up the Defense appropriations bill and the Legislative Branch appropriations bill in full committee. So for the Members' interested in having some idea of our schedule, we plan to have those bills through the House before the August recess.

The committee, once we were freed up from the hold that we had due to budgetary issues, has moved quickly and in a very responsible way, and I am happy to report, Mr. Chairman, that in addition to this good bill we are considering today, the Military Construction bill, which is also a good bill, will be considered on Friday and the Committee on Appropriations is well underway with the eleven other bills and has a very aggressive schedule.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY), the distinguished ranking member of the committee.

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

Mr. Chairman, it is difficult to know how to handle the money in this bill because in my view the reorganization which took place leaves us with still a very discombobulated set of agencies, and it also I think has confused people about what our priorities are.

I am proud of the fact that on four separate occasions this Committee on Appropriations on a bipartisan basis tried to add additional funding for key homeland security items even though on each of those four occasions the White House opposed our efforts. But I want to tell you that today I think the chairman has produced a perfectly reasonable bill provided that we think that the status quo is all right given everything that has happened.

My problem is that I and my staff and the chairman of the full committee and his staff, have had extensive conversations with virtually every one of the national securities agencies in this country. And we got from them a year ago, a year and a half ago, and we have gotten from them as recently as a few weeks ago, their honest best estimates about where we need additional support in order to increase security of people on the home front.

The problem we have today is that we cannot put the resources in this bill that we ought to be putting in because the Congress, the majority party in the Congress, has decided that instead their number one and virtually only priority is tax cuts. And those are skewed mightily to the most well-off people in this country.

And the problem is that when you decide that you are going to put a trillion dollars into tax cuts, then that means that money is not available, not even a portion of it, to use to deal with our high priority needs at home, be they education or health care or, in this case, homeland security. And so what happens is that because of the way the budget process is handled, the public never gets to understand what the linkage is between the tax cut decisions that were made by this Congress and the linkage with these funding limitations for high priority security items.

So very simply, I will be trying to offer an amendment that does a number of things. We will add about $400 million to the Coast Guard for port security grants. The Coast Guard estimates that their long-term needs are for $4.4 billion. We think we ought to do more than just add $100 million to it under those circumstances.

We would increase our share of funding, the share of the Federal contribution for port facility security needs. The problem is, if we stay with the $100 million contained in this bill, it will take about 20 years to close the need in the estimate of the Coast Guard.

We also provide $100 million to implement the Maritime Transportation Security Act to improve and analyze vessel threat information.

We also add $100 million to the Customs inspectors so we can have 1,300 additional people inspecting containers shipped into the United States. Right now only 2 percent of those containers are checked. We think that is a needlessly reckless vulnerability. We are trying to increase by 6 percent the total number of inspector personnel. I think that is hardly out of line.

Then we add $200 million to try to improve northern border security. As I pointed out in the Committee on Rules, during Operation Liberty Shield, 10 aircraft came across the border without clearance even while we were patrolling that northern border by air. We have no idea who or what would have been in those planes.

We proposed to pay for this funding by reducing the size of the tax cut that will go to those with incomes of more than a million dollars next year. We proposed to reduce the size of their tax cut by 6 percent so that instead of getting $88,000 on average, they will get $83,000 per average. That is hardly putting them in the poor house. But it would enable us to reestablish additional support for these crucial investments.

I would urge the House to allow us to consider that amendment because the public has a right to know which of us are for it and which of us are against it. They have a right to know whether we put tax cuts for wealthy people ahead of the security of this Nation.

□ 1400

Mr. WAMP. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN), the chairman of the Subcommittee on the District of Columbia.

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

Mr. FRELINGHUYSEN. Mr. Chairman, today I rise in strong support of the fiscal year 2004 Homeland Security appropriations bill. This bill is a first of its kind but, more important, in the history that is being created with this first-ever homeland bill is the fact that this bill, simply put, makes America and my home State of New Jersey a safer place.

We in New Jersey and New York and the New York metropolitan area know better than most how vulnerable an open and free society can be. We put a very human face on the homeland security issue, as 700 New Jersey citizens went into Lower Manhattan that terrible morning on September 11, 2001, and never came home again, and many more people in New York City as well and residents from over 80 countries. This is all very personal.

These appropriations if spent and managed wisely may well prevent another catastrophic attack on American soil. While we can never really totally eliminate our vulnerabilities, this bill takes important steps to better protect our people and the infrastructure that carries them into and around New York City and over and under the Hudson River each and every day and protects people in other communities and cities around the Nation as well.

Notably, this historic bill recognizes that, while the Department of Homeland Security has the lead in developing our national homeland security strategy, implementation of the strategy requires the active collaboration

and contributions of all States and municipal governments, and the private sector as well. It also recognizes that many of the agencies merged into the Department of Homeland Security in March have traditional missions.

For these and other reasons, Mr. Chairman, I support the passage of this appropriations bill.

Mr. SABO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from North Carolina (Mr. PRICE).

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Chairman, I am pleased to participate in this first-ever debate on the Homeland Security appropriations bill. I want to commend the gentleman from Kentucky (Mr. ROGERS), the chairman; and the gentleman from Minnesota (Mr. SABO), the ranking member, for their leadership of our subcommittee and the fine staff, majority and minority, for their good work.

Our task was to develop a budget where none had previously existed for a Department that is struggling to master its mission. Hearings could not even be arranged for many of the largest and most important of the Department's 11 major agencies. As a result, we did not have the benefit of questioning important agencies such as Immigration and Customs Enforcement, Citizenship and Immigration Services, Information Analysis and Infrastructure Protection, and Office of Domestic Programs. Those four agencies alone constitute 31 percent of the Department's total budget.

The bill before us today provides over $35 billion for the new Department, which is $1 billion over the administration's request. In addition to providing for big-ticket items such as $5.6 billion for Project Bioshield, it provides $4.4 billion in grants to our first responders, which is 25 percent more than the President requested, and $900 million for the science and technology directorate to promote the research and development of security-related technologies.

I am also pleased with the attention paid to the equally important nonhomeland security traditional missions of the many agencies now incorporated in this new Department. For example, the bill before us today rejects the administration's proposal to discontinue the section 404 postdisaster hazard mitigation program and combines it with $200 million for predisaster mitigation activities to both learn from the past and prepare for the future.

I am also encouraged that the bill recognizes the potential of our Nation's institutions of higher learning: $80 million is included for the rapid development of promising homeland security technologies by universities, national laboratories, nonprofit institutions and private companies, as well as $35 million for university and fellowship programs, including $25 million for the creation of university-based centers of excellence.

There are, however, Mr. Chairman, ample grounds for concern: for example, the security of our Nation's ports. Despite no request from the administration, the subcommittee has appropriated $100 million for port security grants to shore up our significant vulnerabilities there. Unfortunately, our Republican friends rejected a Democratic amendment that would have added $500 million toward the $4.4 billion the Coast Guard estimates is needed for port facility security improvements. We would have paid for that by a small reduction in the tax cut going to people making over $1 million a year.

Still, the subcommittee has been assured and must continue to demand the completion of port vulnerability assessments at the Nation's 55 largest ports by the end of 2004.

I remain concerned, Mr. Chairman, with overall fiscal year 2004 appropriations for law enforcement and emergency services. Given the importance of our Nation's first responders to the security of our communities, I want to ensure that the overall funding levels for the Office of Justice Programs, Community Oriented Policing Services, (COPS), the Byrne grant programs, and related accounts remain at or above fiscal 2003 levels.

I support this Homeland Security appropriations bill with the expectation that other appropriations bills, unlike the President's budget request, will provide adequately for first responders. We cannot allow those on the front lines to fall victim to an appropriations shell game, giving with one hand, taking away with the other, to the detriment of our local communities.

Mr. Chairman, it has been over a year and a half since September 11. Much has been accomplished; yet many, many challenges remain. I rise today in support of this appropriations bill, while recognizing the progress we have yet to make in providing for the security of our homeland.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1½ minutes to the gentleman from Tennessee (Mr. WAMP), a very valuable member of our subcommittee, who has contributed much to this bill.

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

Mr. WAMP. Mr. Chairman, I want to make two points: one, if my colleagues like what they see with our Armed Forces and what they have seen in the last several months around the world in terms of our men and women in uniform, I want them to know that what we are trying to do with homeland security is essentially the same kind of bipartisan cooperation here in the Congress so that we adequately resource and establish the priorities for homeland security that mirror what we have done in the Congress to support national security throughout the years, so that the technology that is deployed and the efficiencies that are created, the accountability that is instilled in the Department of Homeland Security is the same as the Department of Defense, and it is difficult. We can always spend more money, but I want my colleagues to know that this bill adequately and effectively resources the needs that we have today.

I also want to point out that a lot is going to be said about tax cuts as we debate all of the appropriations bills, it already has been, but this is not a tax bill. We cannot cut taxes or raise taxes in an appropriation bill. We are charged with spending the money within the budget agreement, and that debate was in April. It obviously lingers here, but that debate was in April. Now we have the responsibility within the budget agreement to spend the money and set the priorities; and in doing so at homeland security, we have had extraordinary cooperation.

I salute the professional staff, I think one of the best staffs that has ever been assembled here; and it was important that we put the best people on the field that we could possibly find, on both sides of the aisle. Our committee work and our chairman and our ranking member, the leadership has been extraordinary; but this is such an important issue. It needs to be the best possible.

So we are off to a good start. Let us stay focused.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. SERRANO), a member of our subcommittee.

Mr. SERRANO. Mr. Chairman, let me first simply say on a comment that we just heard on the House floor that it is related to taxes, because it is a simple mathematical equation. If we have less money to spend because we give it away to the rich, then we have less money for education, for housing, for senior citizens, and for homeland security; and this is a fact of life.

However, having said that, I want to take this opportunity, first, to thank the gentleman from Kentucky (Mr. ROGERS), the chairman, and the gentleman from Minnesota (Mr. SABO) for this historic moment in putting together this bill. This bill, in my opinion, has some deficiencies; but on the other hand, it is a historic bill. It is the first time we have attempted to put together a bill like this and to take care of a need. Therefore, Mr. Chairman, I rise in reluctant support of H.R. 2555.

On September 11, everything changed in this country. The savage attacks on New York and Washington brought home to America that the threat of terrorism at home was terribly real. Among the responses by Congress were the creation of the Department of Homeland Security and the reorganization of the Committee on Appropriations to oversee and fund the new Department. The gentleman from Kentucky (Mr. ROGERS) has ably taken up the challenge of chairing the new

House Subcommittee on Homeland Security. However, the leadership of this House has failed to give him or our ranking member the resources they need to do the job. The bill would not even provide enough funding to keep up with inflation, never mind step up the pace of improvements to our security.

As has been amply covered in other statements and is thoroughly demonstrated by the Obey amendment, which the Republican leadership through the Committee on Rules refused to make in order, there are gaping holes in our security, and at the rate we are going it will be many years before they can be filled. From ports to airport perimeters to our borders, we continue to face risk to our security that must be addressed, but cannot be, under this bill.

On a somewhat more parochial level, I am disappointed that we were unable to do more for grants to high-density urban and high-threat areas. Secretary Ridge just yesterday stated that he believed $750 million would be ''a nice place to start,'' not the $500 million now in the bill.

If I sound somewhat negative in my support of this bill, one needs to understand that I was there in New York on September 11. I saw the tragedy that took place. I saw the crime committed on our country, and the scene of the crime was New York; and so New York has had a tendency to know what it is that we need to deal with this issue because we saw it firsthand. That does not take away our respect for our chairman, our ranking member, the work of the committee.

Mr. Chairman, once again, I reiterate my support for the bill in the hope that as it continues to go through the Senate, it becomes the bill it should be.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LATHAM), a very distinguished and very helpful member of our subcommittee who contributed greatly to this bill.

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

Mr. LATHAM. Mr. Chairman, I thank the chairman for yielding to me.

Mr. Chairman, first of all, I want to commend the gentleman for the great job that he has done on this bill. It is the first Homeland Security appropriation bill in history. We are charting new waters here, and I also want to strongly compliment the great staff that we have on the subcommittee. They have done just an outstanding job to bring this very difficult bill together with all the ramifications that we have.

All Members here should be keenly aware of how difficult this task is and how broad the jurisdiction is, trying to combine 22 different Federal agencies into one Department, have them communicate with each other, have them function together, have them understand their role is to cooperate with States and local governments to ensure our homeland security.

This is a bill unlike any other that we have; and as the Chairman has said so many times, we are successful when nothing happens. As we are spending all this money, if the final outcome is that everything remains quiet, we have been successful, and it is very difficult to judge exactly how many dollars need to go exactly where to complete our role, but I think the chairman and the subcommittee have done an outstanding job.

Mr. Chairman, I rise in support of this bill, and commend Chairman ROGERS for his attention to the many difficult issues we have discussed in our hearings on homeland security.

He has been given the tough job of putting together a spending bill for this new Department and this bill is a testament to his good work and the good work of the Subcommittee staff—they have done an excellent job under difficult circumstances.

Mr. Chairman, the approach the Subcommittee has taken with this bill has been one of strong support for the mission of this new Department and a scrutiny of the many requests and ideas put forth by Members and others.

I believe this has been the best approach because we are moving through uncharted territory. One of my concerns has been that—going forward with this new bill—we would put forth too much money in a way that would paint us into a corner before all of the most pressing homeland security needs became clear.

I believed early on—and still believe—the members of this Committee deserve to know the most efficient methods in which to deploy our Homeland Security resources.

We cannot appropriately fund programs that do not have understandable goals or clear justifications. Every State and Member of Congress should be aware of the pitfalls of adding monies to specific accounts because they feel they have the best answer to our Homeland Security problems.

Let me remind you. We are witnessing the infancy of a Department. There are few of us in this body who have been faced with the enormous and important task of funding a new Department of this size.

I am certain nearly every one of you has been asked to request funding for a specific appropriation for a specific homeland security project. I'm betting that most of you have been overwhelmed by the number of ''potential targets'' in your district.

Those of us on the Subcommittee share your concern. But, this bill is not about Congress making local security decisions—it is about making sure our local responders have a functional Federal agency to work with to solve those problems.

That said—as we move deeper into the process of providing for our Homeland Security, we are going to get a clearer picture of what our needs are. We will be in a better position to prioritize those needs.

Congress is not in a position to mess around with local funding matters. Until the Congress, the administration and our local providers have confidence in the long-term needs, I think the approach we are taking today—in this first year of funding for this new Department—is the correct one.

Again, I want to commend the Chairman for his work on this bill and I urge all of the Members of this body to support this bill.

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Mr. SABO. How much time is remaining on both sides, Mr. Chairman?

The CHAIRMAN. The gentleman from Minnesota (Mr. SABO) has 14½ minutes remaining and the gentleman from Kentucky (Mr. ROGERS) has 9 minutes remaining.

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

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. SWEENEY), who has been a member of the subcommittee who has been extremely helpful to us in this bill.

Mr. SWEENEY. Mr. Chairman, I want to especially thank the chairman of the subcommittee for all his great work.

This is not just about the merging of 22 Federal agencies into one. This is not just about responding to the needs of first responders. This is not just about establishing a system that not only helps first responders but creates a system of first preventers. This has really been a monumental task undertaken to give direction to an entity, a notion, a thought about protecting the American people here at the homeland, something prior to September 11, 2001 we did not give a lot of time to and that goes well beyond anything this government has ever done. This is about first responders, this is about border security, this is about aviation and port security, it is about a Bio-Shield program, and it is about the four corners of defense.

I want to take my 1 minute to especially tell the chairman of the subcommittee, the gentleman from Kentucky (Mr. ROGERS), how thankful I am as a New Yorker, as an American citizen, as someone who lost friends and neighbors in the attack of September 11, for the commitment that he is honoring that we all made on September 11, 2001, for the great work that he has put into this, and for the fact that I feel greatly confident that as we go forward and need to make adjustments as this process evolves, that we have the right person in place at the subcommittee level.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of H.R. 2555, the first annual appropriations measure for the Department of Homeland Security. This bill will help us equip our Nation to prepare for and respond to future disasters. But it is not enough. When it comes to protecting our citizens, we must move faster and we must be stronger.

One critical shortcoming facing us is the failure of the DHS Intelligence Director to fulfill its role as the agency's new nerve center. The effective operation of this unit is indispensable to

the success of the rest of the Department. Instead, resources are being allocated and priorities are being set without a reliable threat assessment that can be mapped against existing vulnerabilities.

We also continue to fall short of meeting our responsibility to first responders. Firefighters, police, health care workers and others on the front lines need our support to keep America safe. With dozens of States experiencing grave budget crises, first responders are more desperate than ever for Federal assistance.

In countless other areas, from port security to air cargo screening to computer interoperability, we are not moving fast enough and we have not become strong enough. We simply must make homeland security our top priority and devote the necessary resources to it.

Even at a time of mounting deficits, though, the administration and Republican leaders in Congress have found trillions of dollars for tax cuts for the wealthiest of Americans. I only wish the same determination were at evidence in this bill.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the gentlewoman from Missouri (Mrs. EMERSON), the hard working member of our subcommittee.

Mrs. EMERSON. Mr. Chairman, I wish to thank the chairman, the gentleman from Kentucky (Mr. ROGERS), for the tremendous job that he and his staff have done in putting together the inaugural Homeland Security appropriations bill and also for the honor of allowing me to serve on that subcommittee as well.

This bill does make a large investment in our Nation's first responders. We have added $888 million above the President's request for the Office of Domestic Preparedness, Firefighters and Emergency Management. This also includes another $750 million in firefighter grants, which has greatly been appreciated in Missouri and, in my judgment, is one of the most successful programs that FEMA and DHS have undertaken.

The bill also makes another important investment in intercity bus security by adding $10 million for this critical initiative. We also include over $5 billion for various transportation security initiatives to ensure that not only our airports continue to run smoothly but also our ports and our highways.

We make a large investment in the future by investing $900 million for science and technology. The funds will target research, development and deployment of innovative technologies that will help us protect the Nation well into the future.

So, Mr. Chairman, I want to thank the chairman again and also Michelle, Stephanie, Jeannie, Jeff, Brian, Tammy, and Tom for the great work they have done.

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

Mr. Chairman, one of the disappointments I had in this rule was it did not waive a point of order on what I thought was a very reasonable limitation on the development of CAPPS2. The gentleman from Kentucky graciously accepted that amendment in committee. I would hope that the folks who are objecting would not raise a point of order when we get to that in the regular bill.

The provision is a moderate attempt to make sure that this very, very large system of compiling information on the American public receives the closest of scrutiny and the closest of examination by GAO and others before it is implemented.

Our amendment left in place the money for the program, left in place the capacity of the Department to proceed with work on how they want to put the program together, but requires it be scrutinized by GAO and the Academy of Science to look at the privacy issues and also to look at its effectiveness. It has the potential to be the largest intrusion of the American government into the private lives of American people that has ever occurred. It also, on the other hand, has the ability to be a system that totally complicates our screening process if it is not done well. Rather than simplify, it may make our whole screening process more cumbersome and more costly and less effective.

If a point of order is raised, the only alternative we will have is to seek a pure limitation without the language. I would hope the House would adopt such a limitation, if that is the situation we find ourselves in, but I much prefer we preserve the language which is for new activity of the Department, one not specifically authorized with guidelines by Congress. It is a new activity that the Department is pursuing and we simply want to put some regulations in place as they move forward to make sure this whole new large complicated program is put in place in a fashion that would work.

I might remind people this is an agency that has had trouble figuring out whether their own workforce has had criminal involvement in the past. They are struggling to make sure that their personnel do not have criminal backgrounds. They have not succeeded doing that yet. So we should be a little cautious before we give them a blank check to move forward with a huge new complicated screening process of the American public.

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

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. GRANGER), another hard-working member of our subcommittee.

Ms. GRANGER. Mr. Chairman, one of our greatest strengths as a Nation has always been our ability to move people and products more safely and efficiently than anywhere else in the world. Unfortunately, as we saw on 9/11, this strength makes our transportation infrastructure a tempting target for terrorists.

Those hijackers that turned four planes into missiles were not just trying to kill thousands, they were also trying to restrict our freedom of movement, our way of life. As people travel more and more, and further and further for business and pleasure, the potential for a large-scale loss of life and an attack involving an airplane, boat, train or truck grows.

While protecting innocent lives is our top priority in homeland security, we all know that serious economic consequences can result after a terrorist attack when it disrupts the flow of goods and people in America's transportation network. These disruptions do not just cost money for big corporations with stranded products, they raise grocery prices for families, cut the earnings of farmers, and cause small businesses to close their doors.

In recognizing the importance and vulnerability of America's transportation infrastructure, Congress has moved quickly to strengthen transportation security. Since 9/11, we have provided more than $10 billion to safeguard and will add $5 million more in this legislation.

Mr. SABO. How much time do I have left, Mr. Chairman?

The CHAIRMAN. The gentleman from Minnesota (Mr. SABO) has 10 minutes remaining and the gentleman from Kentucky (Mr. ROGERS) has 6 minutes remaining.

Mr. SABO. Mr. Chairman, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY).

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

Mr. SWEENEY. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from New York, my good friend, for a colloquy, who will then yield back to me.

Mr. SWEENEY. Mr. Chairman, I intend to do just that, and I thank the gentlewoman for yielding to me.

Mr. Chairman, I rise to enter into a colloquy as well with the gentleman from Kentucky, the chairman of the Subcommittee on Homeland Security. The chairman, who I have had the pleasure of working with, has done a great job, as I said before on this bill, and I thank the gentleman for the inclusion of high threat funds in this particular bill and actually for having created the fund in the first instance. But I wish to highlight some concerns I have with the current distribution formula.

The City of New York spends $13.5 million a week, $700 million a year on extra police protection during its current state of alert. That amounts to more than $1 billion since September 11. And I am not talking about money that the city would spend anyway for police protection. I am talking about the net additional amount New York

spends to protect against terrorist attacks.

New York's needs were highlighted as recently as last week when news of an al-Qaeda operative was arrested for plotting to sever the cables on the Brooklyn Bridge. The operative said one of the main foils to his plan was the added security around the bridge which prevented him from acting.

One of the reasons terrorist prevention needs are not met by some cities is because of the formula the Department uses to distribute funds. I know this is an authorizing issue more than an appropriations issue, but no first responder discussion is complete without recognizing the current formulas, which do not provide enough emphasis on the threat information.

The President and the administration at times have said they support a threat-based distribution of first responder funds in this national strategy for homeland security, and it is my hope this Congress moves quickly to enact a new threat-based formula to apply to first responders.

I recently introduced a bill to reform the first responder formula to reflect today's realities, and that bill would lessen the impact of allocating funds based on geography in favor of a quantitative assessment of threat information, vulnerability and consequences. We are dealing with serious people and we need a serious formula.

I know the war in Iraq is over, to whatever degree, and the national threat level has decreased since then, but last week's news stories prove we must remain vigilant in our fight against terrorism, particularly in New York, and I cannot stress strongly enough the need for focusing first responder funds on high-threat areas. It is no secret where the terrorists are focusing their resources, and I would ask the gentleman from Kentucky how he can address the concerns I outlined if the gentlewoman from New York will yield time to the gentleman from Kentucky.

Mrs. LOWEY. Mr. Chairman, reclaiming my time, I thank the gentleman from Kentucky (Mr. ROGERS) for agreeing to enter into this colloquy, and I wish to associate myself with the remarks of my colleague from New York.

We in New York have been bracing for another terrorist blow since September 11, and all of America has experienced that anxiety. I know the chairman is totally committed to doing everything possible to protect our communities against any potential attack.

□ 1430

It is my understanding from both Federal and local intelligence briefings that New York is still acknowledged to be the top target for terrorism. I believe that New York City and other cities across our country, including Yonkers, New York, in my district, need dedicated resources to protect sites of national significance and critical infrastructure.

I agree with Secretary Ridge that we must distribute Federal funds on the basis of threat of terrorist attack and need, as well as population. That is not to say that States without high-density urban areas do not have important security needs. Our resources are limited, our responsibilities enormous, so we must be strategic; and I hope that the number of us who represent high-threat, high-density urban areas can work with the gentleman to examine this issue.

I appreciate the leadership of our chairman, and I thank the gentleman from New York (Mr. SWEENEY) for his hard work.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman and gentlewoman for this colloquy and applaud the fight they have led for New York, which is one of the reasons we enacted a total of $800 million for high-threat, high-density urban areas in fiscal year 2003.

Of that $800 million, New York received $186 million to assist first responders with the increased security costs associated with the war in Iraq and Operation Liberty Shield. I am aware of the concerns the formula has generated. I assure my colleagues I appreciate the degree to which New York is a target and the expenses New York faces. I am also aware of those rural areas that rely on the basic formula grants to fulfill their first responder requirements. I believe any reform to the formula must ensure that these rural areas are not abandoned. I will work closely with the gentlewoman and the gentleman as the bill progresses to conference on these and other matters.

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

In relationship to our latest colloquy, I understand the concern of people over the situation in New York. They clearly have unusual problems. Would the chairman agree with me that we do not know precisely how the agency sets criteria for the balance of funds in this particular discretionary program?

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Only in a general sense. The presence of high-risk infrastructure, the urban intensity of the region, we leave it to the discretion of the Secretary, as I think we should, rather than some formula. As the gentleman knows, we have been working together.

Mr. SABO. Mr. Chairman, we have a little trouble getting a precise understanding of what criteria are used.

Mr. ROGERS of Kentucky. Mr. Chairman, if the gentleman will continue to yield, the gentleman is correct, but I think in due course of time, perhaps before the bill finally reaches the President, we will have found out more.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER).

Mr. TURNER of Texas. Mr. Chairman, we consider today, of course, for the first time the appropriations for the new Department of Homeland Security. Just as the new Department is taking its first steps to make America safer, we are also embarking on an effort to try to secure the resources that we need for the longer term to ensure victory in the war against terrorism. This bill is a good start, and I support dedicating resources above the President's request to prepare our communities by training and equipping first responders and securing our ports and our transportation systems.

However, as we have been finding in the hearings before the Select Committee on Homeland Security, serious deficiencies remain in the Department's ability to carry out its mission of protecting all Americans from those harms that could come our way through terrorism. Testimony before our Select Committee on Homeland Security revealed that there is one, precisely one, person in the Department of Homeland Security assessing the bioterror threat to America and determining how to match that threat against our vulnerabilities and then make plans to protect America from bioterrorism.

It is clear we must move faster and we must be stronger to protect America. We have learned that, while over 4,000 port facilities and 10,000 ships that enter our ports are required to undergo security reviews, there is no funding to fulfill that mission. We must move faster and be stronger. We have learned that there are serious gaps in coverage on our northern border. There is on average only one person guarding every 16 miles of our Canadian border. The PATRIOT Act called for tripling the forces to protect our northern border, and the 2002 Border Security Act goes even further, but gaps still remain. We must move faster, and our forces must be stronger.

Mr. Chairman, just a few months ago this Congress voted to spend $65 billion to prosecute the war in Iraq. We spent those funds to make sure that our forces had the best training and the best equipment possible. We need to make the same commitment to those who fight on behalf of homeland security today.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COX), the chairman of the Select Committee on Homeland Security.

Mr. COX. Mr. Chairman, the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Florida (Mr. YOUNG) have done an extraordinary job in bringing to the floor a bill that has

as its object the most important function of the Federal Government, protecting these United States from attack. Nothing that we do is more important.

The $29 billion in this legislation for the coming year is nearly 4 percent more than the President requested. It is $250 for every single taxpayer in America. It is an extraordinary amount of money to meet the new challenges of the post-September 11 world.

The $4.4 billion in this bill for first responders is nearly $1 billion more than the President requested. We have in fact in this Congress increased funding for first responders by more than 1,000 percent since September 11.

The Select Committee on Homeland Security, of which the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Florida (Mr. YOUNG) are valued members, have had hearings and field investigations of the problems of getting these monies to our first responders on the front lines. The pipeline is the problem. That money is not getting to where it belongs.

That is why, in addition to the work that we can do in this bill as we go forward in conference, the Select Committee on Homeland Security will also be bringing to this floor legislation to unclog the pipeline and better distribute these monies on a threat basis, the way we have always done it for national security. We will streamline the grant process and base it on the principle of threat analysis.

I commend the chairman for the resources and direction provided in this legislation to ensure an intelligence analytical capacity within the Department of Homeland Security to meet not only the biothreat, but all of the threats to our homeland security that we face. This is an enormous amount of money. We now face the task of making sure that it is wisely spent. In the exercise of our oversight function, we will do just that. Our Nation's freedoms and our way of life depend upon it.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), a distinguished member of the Committee on Appropriations.

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

Mr. HOYER. Mr. Chairman, I rise to talk about the Obey amendment which will be offered shortly. The Obey amendment puts before the Congress of the United States, before our Republican colleagues and before our Democrat colleagues, the question of what options do we want to pursue. The gentleman from California (Mr. COX) has said that the most important objective is keeping our homeland secure, keeping America and Americans safe.

The Obey amendment says do you care more about giving tax cuts to those at the very upper ranks of taxpayers, or do you care about keeping ports, airports, bridges and roads secure? It is a very simple question. It is a question, though, all of us must answer; and we must answer them with the responsibility to the American public that we have uppermost in our minds.

Mr. Chairman, I urge my colleagues, I urge this House to allow the gentleman from Wisconsin (Mr. OBEY) to offer this amendment and to support this amendment and to say to America, we are prepared to protect you.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE) and congratulate the gentlewoman on Rice's victory in the NCAA baseball tournament last night.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for his vision and knowledge of that great sport of baseball, and let me congratulate the Rice Owls. We are excited and delighted that we have such national respect.

I rise to be able to add my support for the Obey amendment. Having just come back from field hearings in Long Beach and Los Angeles with the Committee on Homeland Security, I assure Members it is crucial to get funds in the hands of our local responders; and I use that terminology because I believe it means not only the first responders of firefighters and law enforcement, but nurses, doctors and hospitals, school districts and local government, city and county. That is why I have asked for amendments that I have offered to be made in order that in fact we expedite and simplify the regulatory maze that is required of these entities to get funding right on the ground.

It was amazing from a helicopter overview to be able to see how close residential communities are to sites of potential terrorist acts. We must act now to ensure that our first responders are the first ones that are taken care of to protect our neighborhoods. We need to move forward.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I rise to offer an amendment to the Homeland Security Appropriations Act.

This germane amendment would direct the Secretary of Homeland Security, in conjunction with the appropriate federal agencies, such as the Federal Transit Administration, to determine the percentage of frontline transit employees who have received training in emergency preparedness and response training.

This amendment would have also directed the Secretary of Homeland Security is to Report to Congress no later than 90 days after enactment of this legislation the percentage of ''frontline transit employees'' who have received emergency preparedness and response training.

In addition, the Secretary of Homeland Security would coordinate with the appropriate federal agencies such as the Federal Transit Administration and provide recommendations on what training on emergency preparedness and response training shall be provided to ''frontline transit employees.''

Mr. Chairman this amendment would have provided this new agency with guidance for years to come.

Understandably, we are all grappling with setting priorities and funding levels for new security programs and emerging threats.

By establishing a baseline of what security training our transit workforce needs, it will assist us in establishing priorities and funding levels in future years.

But make no mistake about the importance of establishing a comprehensive transit security-training program for our nation's frontline transit employee workforce.

We need to start now in order to properly plan for the future.

For years, governments around the world have recognized that public transportation is a major terrorist target.

Until 9/11 the United States has been largely spared the kinds of terrorist campaigns waged against public surface transportation.

However, we cannot wait for a tragedy to happen to prompt us to address our vulnerabilities. We must act now!

An October 2001 study released by the Mineta Institute, Protecting Public Surface Transportation Against Terrorism and Serious Crime: An Executive Overview cites that between 1920 and 2000 there have been approximately 900 terrorist attacks and other significant criminal incidents involving public surface transportation systems.

However, all but 14 of these attacks occurred after 1970, the year that marks the beginning of modern terrorism.

Attacks against transportation and transportation infrastructures accounted for 42 percent of all international terrorist attacks, according to the most recent statistics provided by the USDOT Office of Intelligence and Security in 1998.

Again, Mr. Chairman, I offer my statement for the RECORD.

Mr. BLUMENAUER. Mr. Chairman, hometown security should be our number one priority to ensure the American public is safe from terrorism—both domestic and foreign.

The federal government has made significant commitments, but unfortunately these have been more show than substance. The most recent example is the budget for the homeland security appropriations. I know from my own experience that there are vast unmet needs in every community around the country, and Oregon is on exception. The federal government should be helping communities to pay for the costly precautions that local governments must take to respond to high level security alerts, the effects of which ripple through crippled local budgets. We have yet to make local governments whole from the federal government imposed shut down of airports following September 11th. There are vast and clear needs for the Coast Guard which this budget virtually ignores.

We are lavishing hundreds of billions in tax relief for those who need it the least when we are investing billions of dollars in questionable military expenditures, like theater missile defense or Star Wars. It inexcusable that we do not do a better job of listening to and meeting the needs of our local communities around the country. I, in good conscience, find it very hard to vote for this appropriation and hope that we will send the message that Congress should step up and make its action match its rhetoric and the need.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise in strong support of H.R. 2555, the Fiscal Year 2004 Department of Homeland Security Appropriations Act.

This important legislation provides $30.4 billion in funding for the upcoming year, $1 billion over the Administration's request, including $4.4 billion for grants to the police, firefighter and emergency medical personnel that are on the front lines of our nation's homeland preparedness and emergency response. In addition, I am pleased to see in this legislation a timeline to expedite the allocation of these resources within 120 days of passage of this Act.

We have heard today, Mr. Chairman, and will continue to hear that there are simply not enough funds included in this bill to achieve our goal of making our homeland secure. The fact, however, is that to date the federal government has spent $20.8 billion for our nation's first responders, and we will continue to fund what is necessary to ensure they have the training, equipment and resources necessary to do their job.

We in this House know full well that money spend does not simply translate into increased preparedness. This in only a start, and we must continue to be vigilant in not only appropriating adequate funds, but ensuring that these funds are administered strategically as part of a comprehensive plan to address our nation's vulnerabilities and needs. We must remember that while the Department of Homeland Security develops our national homeland security strategy, the implementation and the ultimate success of that strategy rests with our state and local governments.

In closing, Mr. Chairman, the protection of the American citizens is the first and foremost duty of the federal government, and this Congress will continue to work with the Administration, and our states and localities to this end. This bill is a solid next step for our nation's emergency preparedness and response capabilities and I urge my colleagues to support it.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in support of the Obey amendment to add an additional $1 billion to H.R. 2555 to help fill critical homeland security deficiencies and urge my colleagues to support its adoption.

Mr. Speaker, the bill before us would provide $30.4 billion for operations and activities of the Department of Homeland Security in Fiscal Year 2004 and permit the Department to use an additional $4.8 billion in Immigration and air passenger fees.

Whether these amounts are sufficient for the Department to successfully carryout its mission is difficult to know because the Department has provided the subcommittee and my own Select Committee on Homeland Security with very little information about their mission and overall plan of operations. In fact, budget justifications for many important activities within the Department were not submitted for months after the President's budget was released and hearings could not even be arranged for four of the largest and most important of the Department's eleven major agencies.

This is very troubling, Mr. Speaker, particularly in light of the enormity of the Department's mission to protect the country from terrorist attacks.

Equally troubling is the denial by the rules committee of an amendment which was offered by our colleague the Ranking Democrat of the Appropriations committee, DAVE OBEY, to provide an addiitonal $1 billion to help fill critical homeland security deficiencies. The Obey amendment would have added an additional $400 million to the bill for additional port security grants. The Coast Guard has reported that it needs approximately $4 billion more than the $463 million that has been appropriated since September 11th for port security improvements.

In my district, the highest priority for securing our territory against attacks has been and continues to be the establishment of a ''Border Patrol'' unit for the Virgin Islands.

Working in coordination with our U.S. Attorney's Office, the U.S. Customs' Service, the F.B.I., the Transportation Security Administration, and the U.S. Coast Guard, the Government of the Virgin Islands is in the final stages of developing a strategic anti-terrorism and Homeland Security plan for the territory. A critical component of any such plan will require additional resources for our federal agencies, especially the Coast Guard which has to oversee what maybe the busiest cruise ship port in the Caribbean—the port of Charlotte Amalie, St. Thomas. Additionally, the Coast Guard is also called upon to inspect the several ships that visit our waters daily, as well as, the pipes that lead from the ships to the tanks on land. Their search procedure for all ships follow international law and regulations differ for each different type of ship.

In addition to being the location of the busiest cruise ship ports in the Caribbean, the U.S. Virgin Islands is also home to HVENSA, the largest oil refinery in the Western Hemisphere, which regularly receives a number of very large tankers.

The Coast Guard has requested the establishment of a Border Patrol Unit for the Virgin Islands to better enable them to meet their several mandates for protection of our coast, which includes 175 miles of unprotected open borders and is the gateway to the United States as its southern most border.

Enactment of the Obey amendment would have significantly increased the likelihood that the Virgin Islands would receive a critically need border patrol unit.

Mr. Chairman, the Democratic members of the Select Committee on Homeland Security have been seeking answers to a number of fundamental questions about the Department, since the committee's inception. We have been trying to find out whether the Department is fulfilling its responsibility to better coordinate and access threat information and ensure that in the event of a terrorist attack, federal, state, local and private entities are prepared to respond to the event. These questions and others remain unanswered and the bill we are debating today unfortunately does very little to help us receive them.

I urge my colleagues to adopt the Obey amendment.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in support of H.R. 2555, the Homeland Security Appropriations Act of 2004. As a member of the Homeland Security Subcommittee, it has been an honor to take part in the formulation of the new Homeland Security Department. I would like to commend our Chairman, HAL ROGERS, and our Ranking Member, MARTIN SABO, who under tight fiscal restraints did the best job possible putting together this first appropriations bill for the new Department of Homeland Security.

The Department of Homeland Security has had both success and failures. It has been successful in unifying principal border and transportation security agencies, coordinating a network of disaster response capabilities, and creating a central point for the analysis and dissemination of intelligence pertaining to terrorist threats. Beyond that however, the Department has failed to develop a useful roadmap of security goals the Department seems critical to protecting the homeland, such as securing the northern border, tracking all vessels entering American waters or insuring that airline cargo is effectively screened.

As a result, many of the windows of opportunity for terrorist organizations such as al Qaeda are nearly as wide open today as they were on September 11th. Of equal concern, is the fact that the Department seems to be stalled in its ability to put in place a program to close those windows open to terrorist attacks.

Overall this bill provides $29.4 billion in discretionary funding for fiscal 2004. That is only about 1.8 percent above the overall funding level allocated to agencies within the Department for fiscal year 2003. The Congressional Budget Office however, forecasts that prices will increase during the current fiscal year by 2.3 percent. As a result, the bill actually provides funding for the coming year that in terms of real dollars is about $150 million below current levels.

Mr. Chairman, cities such as my hometown of Los Angeles are the ones who must bear the brunt of this inadequate funding. Los Angeles is one of the largest cities and metropolitan areas in the country, and is considered to be one of the most ''at risk'' areas for terrorist attacks. With one of the world's largest port complexes and a major international airport, Los Angeles has heightened vulnerability to potential terrorist attacks.

Without adequate federal support, protecting our cities and towns is extremely costly and causes tremendous hardship on local governments. For example, Los Angeles officials have reported to me that during the days of the three Orange threat levels, the city registered $7.2 million in additional security costs. This figure includes additional costs for areas such as our city airports, our port, our public utility centers, our convention center and our police department. Although I am pleased that today's bill provides $500 million for ''high threat urban areas'' like Los Angeles, clearly this does not provide the funds needed to address the security needs of Los Angeles and other highly vulnerable urban areas.

In addition to representing the downtown portions of the City of Los Angeles, I also represent nine smaller municipalities including Downey, Commerce, Bell Flower, Huntington Park, and Vernon. Like other small cities and rural communities across the nation, these smaller cities are often overlooked in the urgent rush to protect the homeland and to establish emergency preparedness plans. These smaller cities, have increased security needs since September 11, 2001, and have also had to incur additional costs in response to our nation's heightened security alerts. Protecting our small cities is just as important as protecting our large cities, and national landmarks. To highlight this fact, I successfully included language in the bill's report which establishes a process that ensures local governments will be included in the development and

review process of each state's emergency preparedness and security response plan.

Mr. Chairman, another areas of concern is the fact that the funding for our nation's commercial seaports continues to be dangerously inadequate. Our ports are one of our nation's most vulnerable assets. Yet this administration, and the leadership of this Congress continue to underfund our ports. While critics focus on the cost of providing this security, I want to highlight the cost of not providing this security. The labor shutout at the port complex of Los Angeles and Long Beach last fall is estimated to have cost $1 billion per day nationwide. This was only one port complex and yet the daily cost was staggering. If our ports experience a terrorist attack, international commerce would grind to a standstill. The Coast Guard has estimated that the infrastructure security needs at our ports will cost $1 billion in the first year and some $4 billion over a ten year period. Yes, this bill provides only $100 million in port security grants.

Congress was swift about providing funding to secure our nation's airways following the events of September 11, 2001. We must not wait for a similar tragedy at one of our ports to finally provide the necessary security funds.

Mr. Chairman, I must also express my displeasure that the Homeland Security Subcommittee was unable to hold a budget hearing with the Bureau of Citizenship and Immigration Services. This bureau was created under the Department of Homeland Security. Its responsibility is to build and maintain a service system that provides immigration information and benefits to the more than seven million annual applicants in a timely, accurate, consistent, courteous, and professional manner.

Having never met with Mr. Aguirre, the Acting Director, this committee has no way of knowing if this bureau is fulfilling its stated mission. Consequently, I am fearful that without adequate oversight and funding this new bureau will fall into the same bureaucratic trap that made the INS inadequate to meet the needs of this nation's immigrant community. I am hopeful that the subcommittee will have a hearing and receive a full budget justification from the Bureau of Citizenship and Immigration Services before this bill comes to the floor for a vote next year. I am also hopeful that next year the President's budget will request enough funds to realistically address the thousands of cases in backlog at this bureau. Although the committee increased the President's budget request by $14 million, the amount is still fifteen percent less than what was provided in Fiscal Year 2003 for immigration services.

Mr. Chairman, I am also concerned about the ongoing difficulties regarding airport security screeners at Los Angeles International Airport (LAX). These difficulties stem from the poor quality of the Transportation Security Administration's (TSA) security background checks. Despite assurances from TSA that their airport security workforce had been screened, authorized at LAX and other airports discovered that some members of their security screener workforce had criminal convictions. These airports petitioned TSA for the authority to conduct their own background check of the screeners at their own expense. TSA officials at first rejected the request before finally granting approval. The ongoing background checks by these airports are continuing to identify employees with disqualifying convictions. Hopefully, this issue will be resolved once and for all when the Office of Personnel Management (OPM) completes the last of its outstanding background checks on the TSA airport screeners.

Until such time, I am pleased that the bill includes language I offered that urges the TSA to work cooperatively with airport authorities that wish to conduct their own background checks of their TSA screener workforce.

I am also pleased that the bill includes report language that provides guidance to the Department of Homeland Security on two issues critical to the immigrant community. The report language expresses concern about the pattern of harassment, excessive use of force, and racial profiling by private vigilante groups that conduct paramilitary-like operations along our Southwestern border. In San Antonio for example, the sheriff recently arrested vigilantes who were charged with assault for their illegal arrest of two migrants from El Salvador. Vigilantes taking immigration law into their own hands is illegal, and their activity can lead to serious violations of fundamental rights. It can also interfere with the legal activities of protecting our homeland. For that reason, I am pleased that the report includes language I offered expressing concern that vigilante operations against migrants along the Southwestern border should not be tolerated, and may interfere with the work of the Department of Homeland Security.

Mr. Chairman, I am also pleased that the report contains language I requested directing the Department of Homeland Security to improve the processing and resettlement of refugees. Since the Sept. 11, 2001 attacks, increased security checks on individual refugee cases, combined with greater limits on the travel of refugee and immigration officers, have resulted in a slowdown of interviews necessary for U.S. resettlement. Many of these precautions are understandable, but as the Department of Homeland Security begins to shape its policy and procedures, we need to find a safe and acceptable method to quickly process legitimate refugee claims.

The world is looking to the United States for continued leadership in providing a safe environment free of abuse and persecution for many of the world's refugees. I am pleased that the report requests a plan from the Department of Homeland Security, in conjunction with the State Department, to overcome the hurdles encountered during the processing of refugee claims.

Mr. Chairman, while I am disappointed in this bill's inability to fully fund many of our countries initial national security needs, I support the efforts of the Chair and the Ranking Member to best allocate these limited resources. We have much more work ahead of us. I urge the conferees to address this issue of limited funds. In closing, I want to reiterate that I have enjoyed working with Chairman ROGERS who I know did his best given the limited resources the subcommittee was provided.

Mr. NUSSLE. Mr. Chairman, I rise to speak on the unfolding of the appropriations process for fiscal year 2004 and the Homeland Security appropriations bill in particular. The actual appropriations process commenced on April 10 when, five days before the statutory deadline, the U.S. Congress agreed to a budget resolution that established an overall limit or allocation on appropriations for fiscal year 2004.

THE BUDGET RESOLUTION

The budget resolution provided a total allocation for discretionary appropriations of $785.6 billion in fiscal year 2004, including the amounts held in reserve for the Bioshield initiative. This represents a 2.6 percent increase over the current year, which is slightly higher than the rate of inflation. Additionally, the budget resolution allowed an additional $23.2 billion to be appropriated in advance for fiscal year 2005.

The Congress agreed on this number after considerable deliberations involving the Leadership, the Budget and Appropriations Committees, and rank and file Members. We started with CBO's reestimate of the President budget request of $786.6 billion. We added $890 million for biological and chemical threats and another $215 million for the Iraq supplemental. At the same time, it was reduced by $2.2 billion to reflect advance appropriations that were not part of the President's original budget submission.

302(b) ALLOCATIONS

Last week the House Appropriations Committee finally decided how to divide that allocation across its 13 appropriations subcommittees. Under these allocations, total appropriations for defense and military construction will have climbed by 7.1 percent a year between fiscal years 2000 and 2004. Somewhat surprisingly, all other non-defense discretionary spending will have increased over the same period by a robust 8.2 percent.

The Appropriations Committee appropriately exercised its prerogative to allocate funding based on Congressional priorities. The Appropriations Committee comes in under the Administration request's by $3.2 billion for defense and $1.8 billion for Foreign Affairs. At the same time, it would exceed the President's request by $448 million for Labor, HHS and Education, $400 million for VA–HUD, $279 million for Energy & Water, $221 million for Agriculture, and $241 million for Commerce, State & Justice.

HOMELAND SECURITY APPROPRIATIONS

Today we consider the first of these appropriations bills, H.R. 2555, the Homeland Security Appropriations Act of 2004. This is a landmark occasion: the first separate appropriation bill for the Department of Homeland Security, which consolidates 22 Federal agencies and is expected to reach 180,000 employees.

The spending levels in this important measure are consistent with the limits for fiscal year 2004. The bill provides $29.4 billion in appropriations for fiscal year 2004, an increase of $8.1 billion or 38 percent above last year's level. Much of this increase is for Border and Transportation, Emergency Preparedness, Informational Analysis and the Coast Guard. With total fiscal year 2004 appropriations equal to the allocation for the Homeland Security Subcommittee, the bill complies with the Congressional Budget Act.

The bill does provide an advance appropriation for Bioshield in fiscal year 2005, however, that is not permitted under the terms of the budget resolution.

H.R. 2555 does not contain any emergency-designated BA, which are exempt from budget limits. Nor does it rescind any previously appropriated BA.

This bill demonstrates Congress' unflinching commitment to win the war against terrorism.

Consistent with the Budget Resolution, the bill provides resources above the President's request in areas like Border and Transportation Security, Emergency Preparedness and Response, and Science and Technology. This bill will enhance the Nation's ability to secure our borders, protect lives and property, and disrupt terrorist financing.

The bill also provides appropriations for the acquisition of various countermeasures against nuclear, radiological and biological threats. The authorization for these countermeasures has been reported by the Energy and Commerce and Government Reform Committees and will be acted upon by the Homeland Security Committee later this week.

BIOSHIELD

I am pleased the Appropriations and authorizing committees were able to meet a critical need in the fiscally responsible manner outlined in the budget resolution. Rather than create another entitlement program, the program was kept fully within the oversight of the Appropriations Committees. In order to give the administration the assurance of adequate funding in the outyears, the bill provides advance appropriations for fiscal years 2005 through 2013.

My only concern with this approach is that some might be tempted to exploit the fact that much of the advance of appropriations are scored in fiscal year 2005 on the expectation they will spend out over time by reducing that amount in 2005 to achieve spurious savings. I take it in good faith that the Appropriations Committee will leave these funds untouched in fiscal year 2005 so they will be available as the need arises in subsequent years.

CLOSING

As we enter the appropriations season, I wish Chairman YOUNG and all our colleagues on the Appropriations Committee the best as we strive to meet the needs of the American public within the framework established by the budget resolution.

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

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

DEPARTMENTAL ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for management and operations of the Department of Homeland Security $221,493,000; of which not to exceed $78,975,000 shall be for the Office of the Secretary and Executive Management; of which not to exceed $116,139,000 shall be for the Office of the Under Secretary for Management; of which not to exceed $8,106,000 shall be for the Immediate Office of the Under Secretary for Border and Transportation Security; of which not to exceed $10,044,000 shall be for the Immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection and the Command Center; of which not to exceed $3,293,000 shall be for the Immediate Office of the Under Secretary for Emergency Preparedness and Response; and of which not to exceed $4,936,000 shall be for the Immediate Office of the Under Secretary for Science and Technology: *Provided,* That not to exceed $2,000,000 may be used for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of Homeland Security: *Provided further,* That not to exceed $40,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine.

AMENDMENT OFFERED BY MR. FILNER

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

The Clerk read as follows:

Amendment offered by Mr. FILNER:

In the item relating to ''DEPARTMENTAL ADMINISTRATION–SALARIES AND EXPENSES'' after the first dollar amount, insert ''(reduced by $5,000,000)''.

In the item relating to ''BUREAU OF CUSTOMS AND BORDER PROTECTION–SALARIES AND EXPENSES (INCLUDING TRANSFER OF FUNDS)'' after the dollar amount, insert ''(increased by $5,000,000)''.

Mr. FILNER. Mr. Chairman, I thank the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) for bringing us this bill on such an urgent matter.

I come with a small amendment that has rather big ramifications on our southern border with Mexico. I represent all of the California-Mexico border. As the President of the United States and his Secretary of Homeland Security agreed with the President of Mexico, we need a smart border, a smart border meaning security, yes, tight security, but efficiency also.

□ 1445

We need a blending at our borders of security and efficiency. In my district, I have got about a quarter of a million, that is over 250,000, legal crossings every day through the six or seven border crossings in my district. That is a lot of traffic. That traffic is very legal. It is for important purposes, important for our economy, important for our families, jobs, housing, culture, education, all that is going on in this exchange across the U.S.-Mexico border. We have shown that we can have the security we want with efficiency. We started a new program several years ago called SENTRI, meaning Secure Electric Network for Travelers Rapid Inspections. What that means in English is that we give people who have legitimate business across the border to travel, and they do it frequently, we give them as extensive a background check as is necessary to guarantee they are secure. We also give their vehicle a background check, and that vehicle and that person is matched when they cross the border by a smart card and a transponder. That is the SENTRI system. The Customs and INS now and under Department of Homeland Security set aside certain lanes of the border crossings for that purpose, for the SENTRI crossings.

Unfortunately, the demand for those smart cards way exceeds the ability right now of the Department of Homeland Security to meet. There is a backlog of 6, 7, 8 months. The Subcommittee on Homeland Security, and I thank the gentleman from Kentucky for this, in their report said what a great program SENTRI is. They complimented the fact that it exists. What we at the border need, though, is some assurance from this Department that money will go to this incredibly important use. We are not sure given some of the problems in the organization of this new Department that people are looking at the border and will think about it. We need some accountability that the money will go into that program.

We now have 42,000 motorists using SENTRI. As I said, there are three or four times that who are waiting to participate. The backlog is over 6 months. There is no assurance that that backlog will decrease unless there is some dedication of funds to this program.

I know that there is on the part of the committee a rightful concern with, ''earmarks.'' I just ask that the chairman think about accountability not only in the Department but for the stakeholders at the border. We have people on both sides of the border, people who are doing legal business that are so important to our economies. Mexico is now our largest trading partner. A big part of that trade goes on trucks through California, the other part through Texas. We need to move that quickly with security guaranteed.

That is what my amendment will do. The folks who are doing this at the border need to know that the money is going to be there. They need to know that their business can be carried on. They need to know that they can expand their business because they know that crossing the border will be enhanced in a positive fashion. I say to the gentleman from Kentucky and the gentleman from Minnesota, I know that there is some reluctance to specify programs in their bill. I would just hope that such an amendment with such ramifications for our whole economy, and not just in Texas and New Mexico and Arizona and California where the border crossings are, but in Kentucky where there are people waiting for just on-time delivery. They need to know that SENTRI is working. I would ask for approval of $5 million for the SENTRI program.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in reluctant opposition to this amendment by the gentleman who has been working very

hard on the issue. Originally, this program permitted those certified as low-risk travelers to cross the Mexican border on an expedited basis for 1 year. However, in order to accommodate the unexpected increases in enrollment in that program following 9–11, Customs and Border Protection in February 2003 extended the enrollment period to 2 years. That had the effect of benefiting both participants in the program and the government by reducing paperwork and made the annual enrollment fee a biennial fee. But current enrollees had their eligibility automatically extended for 2 years from the date of their last enrollment and the applications backlog that was being blamed for increased waits at the border has been greatly reduced. So I do not think the problem is as bad as it perhaps was at the outset.

Number two, we took $333 million in the 2003 wartime supplemental and gave that to the Bureau of Customs and Border Protection. We have not received their spend plans on how they intend to use those funds. The Department, however, could, I would remind the gentleman, could use a portion of the supplemental to support the SENTRI expansion. They do have some discretion.

Number three, and the gentleman alluded to this. We have already cut the funds for the Department's administration by 25 percent. The moneys he would take with this amendment would come out of administration. We have already cut them past the bone almost. Additional reductions could reduce the basic departmental administration programs and impair their ability to fulfill management of the entire agency.

For all those reasons, Mr. Chairman, I reluctantly oppose the amendment and would urge Members to reject it.

Mrs. DAVIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of the Filner amendment to the Homeland Security appropriations bill. This amendment would provide the Bureau of Customs and Border Protection with critical funding to reduce the backlog of applications for the SENTRI program. I acknowledge the words that were just spoken about the need to use administrative funding; but, Mr. Chairman, we use less than 1 percent of that budget for this program. I want to tell you how important it is. The gentleman from California (Mr. FILNER) and I are well acquainted with the merits of the SENTRI program. I thank him for his work on this amendment and for his continued support on border management issues. The gentleman from California is a cosponsor of the SAFE Border Act, legislation that I introduced to modernize SENTRI. I would also like to thank Chairman ROGERS and Ranking Member SABO for the inclusion of report language regarding SENTRI.

So what does SENTRI do? It prescreens applicants. The program accepts only low-risk travelers who pass a background and a vehicle check, and it focuses enforcement efforts on those travelers who are not prescreened. Moving low-risk travelers into SENTRI lanes permits border agents to concentrate on other border crossers. It allows the entry of thousands of San Diego and Tijuana residents who cross the border every day and play a vital role in the area's economic and social life as commuters, shoppers, or visitors. Unfortunately, our border infrastructure has not kept pace with the booming traffic volume, and travelers frequently encounter delays and congestion at the border. SENTRI is an innovative program. It integrates security with efficiency. In this program we have a model of best practices that enhance national security and facilitate legitimate traffic. Why would we not direct resources to this program? Why would we not take every advantage, every opportunity to increase security?

To some extent SENTRI has become a victim of its own success. Enrollment increased, as we know, by more than 100 percent after September 11 and currently prospective applicants must wait several months. Next March, SENTRI will certainly need funding to handle the heavy processing demands caused by both renewals and new enrollees. Our agents at the border shoulder an enormous responsibility every single day. We owe them the appropriate resources and support they need to carry out their duties. We must also think about the technology and equipment needs of a program like SENTRI. This type of investment in our ports of entry results in greater border security and better trade flow.

Supporting this amendment, Mr. Chairman, would not only allow agents to reduce the SENTRI application backlog but means that the Bureau of Customs and Border Protection could do more background checks and improve national security. The ability to control our border is national security. It is trade and it is commerce for our region. It is an investment in the future of our ports of entry. It is communities seeking solutions to address our border management issues.

I hope my colleagues will join me in supporting the Filner amendment.

Mr. FILNER. Mr. Chairman, will the gentlewoman yield?

Mrs. DAVIS of California. I yield to the gentleman from California.

Mr. FILNER. I just would like to point out in furtherance of both our arguments and before the gentleman from Texas speaks, that there may be a rather slow hiring at the Department and thus carryover funding may be more than anticipated. With this really small amount of money from that account, it should not influence in a negative fashion anything about the hiring for this Homeland Security Department. I would again reinforce what she was saying, that the money is there, it is just a question of saying that it is going to be available and thus everybody at the border knows what is going on and we will have a more efficient border.

Mrs. DAVIS of California. I thank the Member for pointing out the fact that this is a phased-in process, and it is true that we will be doing it in a gradual way. But it gives people a sense of hope, a sense of knowledge, a sense of commitment that they and their businesses will be cared for as they move forward and as they try and increase commerce along the border, the good commerce that we all look forward to.

Mr. REYES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the vast majority of border crossings are made for legitimate purposes. As we seek to secure our borders, we cannot afford to strangle them. With 22 percent of our Nation's exports and imports crossing our land borders, we need to have adequate systems in place to ensure that legitimate trade and travel are not unduly impaired. SENTRI is one such system that has been used successfully in my district of El Paso, Texas, in putting together dedicated commuter lanes. These lanes reduce waiting times at the border for prescreened, low-risk, frequent border crossers.

The Filner amendment would provide needed funds to reduce the backlog of people applying to enroll in the SENTRI program. In my own district, we need some of these very same funds to replace equipment in our enrollment centers that often break down and other legitimate purposes to increase the legitimate flow of traffic back and forth between our borders. The sooner we can screen people out who pose no threat to our security, the more we will be able to concentrate our limited resources on those that may pose a threat to our national security.

Therefore, Mr. Chairman, I rise this morning to urge my colleagues to join me in voting ''yes'' on the Filner amendment.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to express my appreciation to the gentleman from Kentucky as well as the gentleman from Minnesota for the hard work that they have done on this bill under very difficult circumstances. Part of the problem is that there does not seem to be enough money to deal with the problems of domestic security at a time when this Nation appears to be under threat. At least that is what the administration would lead us to believe. Every other week we are going up to the orange alert code. Local governments around the Nation are responding to that. So if we are under threat, we need to be providing for the people at the local level who have to deal with that threat. This bill for all the care that has been put into fashioning it does not deal with that problem adequately. The problem seems to be that there is not enough money. I have heard people come to the floor here,

even today, and talk about the fact that this is the appropriations process, it is not the budget process. But nothing here happens in isolation. This is all of a piece. If you are going to cut taxes, if you are going to take money out of the Treasury, do not be surprised if a little while later you do not have enough money to pay for your domestic security programs. That is the situation that we are confronting in the context of this bill.

Let me be even a bit more specific. Last year, we appropriated $2.9 billion of grants to State and local governments to help them prepare for and defend against terrorist attacks.

□ 1500

Eight hundred million dollars or about 30 percent of that was directed to high-threat areas. Some people would argue that 30 percent is not enough to be directed toward high-threat areas. They ought to have more than that. But we are getting even less in this particular bill. Seventy percent in last year's appropriation went to other places across the country. That number under this piece of legislation goes up to 83 percent, and the effective cut for areas under high threat goes from $800 million to $500 million, and that has to be spread all across the country in areas that constitute areas of high threat. Secretary Ridge himself has said that the $800 million is not enough. Certainly the $500 million is not enough.

We are not providing for the kind of national security that the administration talks about and Members of this Congress take this floor to talk about. It is one thing to express one's understanding of the need to deal with the problems of domestic threat. It is another to face up to those domestic threats and provide the resources so that the people out there on the firing line, the local government officials, the police, the firemen, emergency medical services personnel and others are able to contend with the problem when they express themselves and almost certainly they will.

So for all the care that the chairman and the ranking member have put into this bill, it remains deficient overall in the amount of money that we are spending on national security. No fault of theirs. They have been restricted in the amount of money they have to work with. There is not enough money allocated by this Congress or by the administration to deal with this problem. There is a lot of money for tax cuts. There is $80 billion to fight the war in Iraq, but there is not enough money to provide for domestic security. And on top of that in the context of this bill, we are cutting back on the amount of money that is allocated to high-threat areas specifically. That is foolish and we need to correct it.

We are beginning a process with this appropriation bill here today, and it is my hope that we will all work together constructively so that in the final analysis when we pass the final appropriation measure, we will have a bill that adequately provides funding for our domestic security needs and also takes into consideration those additional specific security needs that exist in areas of high threat across the country.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman that just spoke made some comments that I feel must be responded to. It is not really relevant to this amendment, but I will try to make it so, and that is whether or not we are providing enough funding for our State and local responders. I hear it every day. We hear it every day. Most people are uninformed or misinformed about how much money is going out there. In this bill we provide over $4 billion, and added to the moneys that we put in the 2002 bill and the 2003 bill, we will have appropriated some $20.8 billion just for State and local first responders. The money is going out in different sorts of grants. There are eight or 10 different sorts of grants, one of which goes to the high-threat urban areas such as New York, Washington, L.A., other places, and those go out at the discretion and in the decision of the Secretary.

Last year, the current year 2003, we provided $800 million for just the high-threat/high-density urban areas. The administration in the 2004 request did not request any funds in that account. We put $500 million back in that account, and that is in the bill as we speak. However, in the other grant accounts we have increased the grants for State and local first responders by over $1 billion. We do not hear that talked about, but it is there. There is over $1 billion more in those grant programs this year and next year than this year, $203 million above what we gave this year and $1 billion over what the President requested.

So I want to ask where is the beef? Where is the beef?

Those moneys are going out under competitive and discretionary grant programs to our States. Under this bill our States are required by law to give that money, 80 percent of it, to the locals within 60 days. The States have got to set up their own machinery for processing these applications. They have not done that yet. New York's application was almost tardy. We are just now getting the applications. And yet then we are saying you are not giving us the money. The money is there when you qualify and will be there during this year, but we have increased the amounts of money that go to State and local first responders $203 million above what they have now and $1 billion more than was requested by the President.

If the administration wants to submit a change in their budget request that changes these grants in some fashion, I am sure they will send us the supplement to their budget and we will give it due consideration. But, Mr. Chairman, I want to be sure that Members understand the State and local first responder grant moneys are there more than last year, $1 billion more than the President requested. If the States will get their committees together and do their paperwork and apply for these moneys, they will be there, and if there are any delays in the pipeline, it is mainly because the States and localities have not applied for the money.

So Mr. Chairman, I rest my case.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. FILNER).

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

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

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

The Clerk will read.

The Clerk read as follows:

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, $20,000,000, to remain available until expended, to reimburse any Federal agency for the costs of providing support to counter, investigate, or prosecute unexpected threats or acts of terrorism, including payment of rewards in connection with these activities: *Provided*, That the Secretary shall notify the Committees on Appropriations 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

DEPARTMENT-WIDE TECHNOLOGY INVESTMENTS

For development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the Land Mobile Radio legacy systems, $206,000,000, to remain available until expended: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology system and the Automated Commercial Environment.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $58,118,000; of which not to exceed $1,000,000 may be used for unforeseen emergencies of a confidential nature, to be allocated under the direction of the Inspector General of the Department of Homeland Security: *Provided*, That in addition, $22,000,000 shall be derived by transfer from the Emergency Preparedness and Response Disaster Relief Fund.

TITLE II—BORDER AND TRANSPORTATION SECURITY

CUSTOMS AND BORDER PROTECTION

BUREAU OF CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Bureau of Customs and Border Protection for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports, including planning, construction, and necessary related activities of buildings and facilities, $4,584,600,000; of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $129,000,000 to remain available until September 30, 2005, shall be for inspection technology; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13021(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; and of which not to exceed $5,000,000 shall be for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: *Provided,* That none of the funds available to the Directorate of Border and Transportation Security may be used to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2004, except that the Commissioner of Customs and Border Protection may exceed such limitation as necessary for national security purposes and in cases of immigration emergencies: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: *Provided further,* That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every 7 days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AMENDMENT OFFERED BY MR. OBEY

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

The Clerk read as follows:

Amendment offered by Mr. OBEY:

In title II, in the item relating to ''BUREAU OF CUSTOMS AND BORDER PROTECTION—SALARIES AND EXPENSES'', after the aggregate dollar amount, insert ''(increased by $100,000,000)''.

In title II, in the item relating to ''BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT—SALARIES AND EXPENSES'', after the aggregate dollar amount, insert ''(increased by $200,000,000)''.

In title II, in the item relating to ''TRANSPORTATION SECURITY ADMINISTRATION—AVIATION SECURITY''—

(1) after the aggregate dollar amount, insert ''(increased by $150,000,000)''; and

(2) insert before the period at the end the following:

: *Provided further,* That of the total amount provided under this heading, $75,000,000 shall be available only for grants to airports for perimeter security improvements, $50,000,000 shall be available only to screen cargo carried on passenger aircraft, and $25,000,000 shall be available only to ensure that overseas aircraft maintenance facilities that service United States aircraft comply with United States security standards

In title II, in the item relating to ''TRANSPORTATION SECURITY ADMINISTRATION—MARITIME AND LAND SECURITY'', after each of the dollar amounts, insert ''(increased by $400,000,000)''.

In title IV, in the item relating to ''UNITED STATES COAST GUARD—OPERATING EXPENSES''—

(1) after the aggregate dollar amount, insert ''(increased by $100,000,000)''; and

(2) insert before the period at the end the following:

: *Provided further,* That of the total amount provided under this heading, $100,000,000 shall be for implementation of all of the requirements of the Maritime Transportation Security Act of 2002 (Pub. L. 107–295)

In title IV, in the item relating to ''INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION—OPERATING EXPENSES'', after the aggregate dollar amount, insert ''(increased by $50,000,000)''.

At the end of the bill (before the short title), insert the following:

SEC. ____. In the case of taxpayers with adjusted gross income in excess of $1,000,000 for the tax year beginning in 2003, the amount of tax reduction resulting from enactment of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Pub. L. 108–27) shall be reduced by 5.66 percent.

Mr. OBEY. (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order.

Mr. OBEY. Mr. Chairman, this amendment attempts to do six things. It would add $400 million for port facility security grants. The Coast Guard says that we need more than $4.5 billion over time to secure those operations. At the committee rate of only an additional $100 million per year, it would take 20 years for us to get halfway to the task that is defined for us by the Coast Guard. I do not think that is fast enough. We would also add $100 million for the Coast Guard to implement the Maritime Transportation Security Act, which passed this Congress last November, which is aimed at strengthening our ability to analyze vessel threat information.

We need simply look at the newspaper headlines yesterday about explosives bound for Sudan that were picked up by the Greek government, 680 tons of explosives and 8,000 detonators in the ship Baltic Sky, which the inspectors described as being tantamount to the power of an atomic bomb. I think that makes eminently clear why we need to protect our own ports to a greater extent.

Thirdly, we would add $100 million to increase the inspections of containers that are being shipped to this country. Right now we inspect only 2 percent. We would add 1,300 more inspectors. We are just scratching the surface in terms of what we need.

Fourth, we would add $200 million to improve northern border security. That border is 5,500 miles long. It is highly vulnerable. I referred earlier to the some 60 aircraft that flew across that border unannounced and unflagged over the past year.

We would then add $150 million for aviation security to secure airport perimeters and to strengthen our ability to screen cargo on passenger planes. It is kind of strange to provide screening for passengers if we do not provide it for cargo.

Lastly, we would add $50 million for the Information Analysis and Infrastructure Protection Division in the new agency that is supposed to be the nerve center, the brain, of that agency in targeting what our biggest vulnerabilities are. We would pay for that by reducing the size of the tax cut that was passed by this Congress. We would reduce the size of the tax cut for taxpayers who earn more than $1 million a year. They are scheduled to get an $88,000 tax cut. We would reduce that tax cut to $83,000. So instead of getting $17.7 billion next year, they would only get $16.6 billion in tax reduction. I hardly think that is laying a scratch on them.

Mr. Chairman, the purpose of the Budget Act was to try to force the Congress to recognize the choices and the trade-offs that are attendant to any budget. The problem is that the way the budget process has been used, we have a situation in which we have a huge disconnect between actions on the tax bill and the consequences that flow in terms of reduced services and reduced security for the country. So I would simply ask that we recognize that this amendment meets essential services. It provides essential services, and it also has the added feature of demonstrating that there is a price to pay for tax cuts primarily aimed at such high-income people, especially when it means and requires that by the time we finish our action on the tax side of the ledger, we have only table scraps left to provide needed services not just for homeland security for that matter but for education, health care, and a number of other crucial items.

For those who say we are invading the jurisdiction of another committee, we did that at the expressed request of the House leadership just a few months ago on the omnibus appropriations bill. So this is nothing new, and I would urge support for the amendment, Mr. Chairman.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Kentucky (Mr. ROGERS) insist on his point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and therefore violates clause 2 of rule XXI, which states, in part, an amendment to a general appropriations bill shall not be in order if changing existing law, and I ask for a ruling from the Chair.

The CHAIRMAN. Does any other Member desire to be heard on the point of order? The gentleman from Wisconsin.

PARLIAMENTARY INQUIRIES

Mr. OBEY. Mr. Chairman, I do and I would first raise a parliamentary inquiry. Could the Chair tell us what rules were waived by the Committee on Rules for consideration of the majority committee bill and its provisions?

The CHAIRMAN. The Chair will read the pertinent portion of House Resolution 293, the rule providing for consideration of this bill in Committee of the Whole, and that portion is: ''Points of order against provisions in the bill for failure to comply with section 501 of House Concurrent Resolution 95 and clause 2 of rule XXI are waived except as follows: sections 514, 521, and 522.''

□ 1515

Mr. OBEY. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OBEY. Is it not true that the selective waiving of the rules as cited by the Chair make clear that the DeLauro amendment and the Sabo amendment, which were offered in committee, were not protected by the rule? That is the practical effect of that language, as I understand it.

The CHAIRMAN. The sections specified in the rule, 514, 521, and 522, are not protected.

Mr. OBEY. So my understanding is that that means that the DeLauro language on corporate expatriates and the Sabo amendment with respect to CAPPS were both precluded from being considered by the House.

Would the Chair answer one other parliamentary inquiry, please. What rules are waived to enable my amendment to be offered on behalf of the minority?

The CHAIRMAN. The rule does not speak to amendments to the bill.

Mr. OBEY. Mr. Chairman, then let me simply raise a further parliamentary inquiry.

The CHAIRMAN. The gentleman may state it.

Mr. OBEY. Because what I think the Chair just said is that the Committee on Rules, in contrast to the way it handled majority provisions, that the Committee on Rules did not make in order a waiver for our side of the aisle.

But let me ask the Chair as a parliamentary inquiry, is it not correct that on the omnibus appropriations bill just a few months ago that we amended the Medicare Act not once, but in two separate areas, to provide a 6 percent increase in funding for providers under the Medicare Act, even though that was considered invading another committee's jurisdiction?

Is it also not true that on that omnibus legislation the committee was allowed to increase payments under division N, section 401(b) of the Medicare Act for rural hospitals? Is it not true that we waived the rules to allow the U.S. Customs Service to conduct vehicle inspections on the Canadian side of the U.S.-Canada border? And is it not also true that during the tumultuous debate about what to do about the dilemma of the airlines, that we waived rules again to allow the committee to include in its appropriation bill the bailout for the airlines as well as the extension of unemployment benefits to those in that industry?

The CHAIRMAN. As the Chair stated on June 26, 2002, the Chair cannot place issues into historical context; and, therefore, the gentleman has not stated a proper parliamentary inquiry.

Mr. OBEY. Well then, Mr. Chairman, I would simply say that I would urge the Chair to uphold my right to offer this amendment, because I cannot believe that the majority leadership would want to be so unfair as to waive provisions of our rules for the majority party's bill, but to not extend the same opportunity to those of us on the minority side, and to point out that I have just recited four instances where, just a few months ago, the majority leadership insisted that we provide these waivers for these non-appropriated purposes.

The CHAIRMAN. Do further Members wish to speak on the point of order?

If not, the Chair is prepared to rule.

The gentleman from Kentucky makes a point of order that the amendment proposes to change existing law in violation of clause 2(c) of rule XXI.

The amendment, in pertinent part, proposes to increase budget authority to be offset by a change in certain tax statutes under the Internal Revenue Code.

As the Chair previously ruled on September 8, 1999, and July 26, 2001, an amendment to a general appropriation bill addressing tax-rate reduction under the Internal Revenue Code constitutes legislation in violation of clause 2(c) of rule XXI; and, therefore, the point of order is sustained.

Mr. OBEY. Mr. Chairman, on that I most reluctantly and respectfully move to appeal the ruling of the Chair.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

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

RECORDED VOTE

Mr. ROGERS of Kentucky. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 200, not voting 12, as follows:

[Roll No. 305]

AYES—222

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOES—200

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch

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

NOT VOTING—12

Baird
Brown-Waite, Ginny
Camp
Conyers
Cubin
Garrett (NJ)
Gephardt
Gilchrest
Gutierrez
Paul
Smith (WA)
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that there are less than 2 minutes remaining in this vote.

□ 1541

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

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

So the decision of the Chair stands as the judgment of the Committee.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to this paragraph? If not, the Clerk will read.

The Clerk read as follows:

In addition, for administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, and notwithstanding section 1511(e)(1) of Public Law 107–296, $3,000,000 to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with this account.

AUTOMATION MODERNIZATION

For expenses not otherwise provided for Bureau of Customs and Border Protection automated systems, $493,727,000, to remain available until expended, of which not less than $318,690,000 shall be for the development of the Automated Commercial Environment: *Provided,* That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Bureau of Customs and Border Protection prepares and submits to the Committees on Appropriations a plan for expenditure that (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A–11, part 3; (2) complies with the Bureau of Customs and Border Protection's Enterprise Information Systems Architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Bureau of Customs and Border Protection Investment Review Board, the Department of Homeland Security, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office: *Provided further,* That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until such expenditure plan has been approved by the Committees on Appropriations.

IMMIGRATION AND CUSTOMS ENFORCEMENT

BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Immigration and Customs Enforcement for enforcement of immigration and customs laws, detention and removals, investigations, including planning, construction, and necessary related activities of buildings and facilities, $2,030,000,000; of which not to exceed $5,000,000, to remain available until expended, shall be for conducting special operations pursuant to Public Law 99–570 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not less than $100,000 shall be for promotion of public awareness of the child pornography tipline; and of which not less than $200,000 shall be for Project Alert: *Provided,* That none of the funds available to the Bureau of Immigration and Customs Enforcement may be used to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2004, except that the Assistant Secretary of the Bureau of Immigration and Customs Enforcement may exceed such limitation as necessary for national security purposes and in cases of immigration emergencies: *Provided further,* That of the total amount of funds made available for activities to enforce laws against forced child labor in fiscal year 2004, not to exceed $5,000,000 shall remain available until expended for support of such activities: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

FEDERAL PROTECTIVE SERVICE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operations of the Federal Protective Service, $424,211,000 shall be transferred from the revenues and collections in the General Services Administration, Federal Buildings Fund.

AUTOMATION AND INFRASTRUCTURE MODERNIZATION

For expenses not otherwise provided for Bureau of Immigration and Customs Enforcement automated systems, $367,605,000, to remain available until expended, of which not less than $350,000,000 shall be for the development of the United States Visitor and Immigrant Status Indicator Technology system (US VISIT): *Provided,* That none of the funds appropriated under this heading may be obligated for US VISIT until the Bureau of Immigration and Customs Enforcement prepares and submits to the Committees on Appropriations a plan for expenditure that (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A–11, part 3; (2) complies with the Bureau of Immigration and Customs Enforcement Enterprise Information Systems Architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Bureau of Immigration and Customs Enforcement Investment Review Board, the Department of Homeland Security, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office: *Provided further,* That none of the funds appropriated under this heading may be obligated for US VISIT until such expenditure plan has been approved by the Committees on Appropriations.

AIR AND MARINE INTERDICTION

For expenses, not otherwise provided for, necessary for the operation, maintenance and procurement of marine vessels, aircraft, and other related equipment of the Office of Air and Marine Interdiction of the Bureau of Immigration and Customs Enforcement, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: conducting homeland security operations; interdiction of narcotics and other illegal substances or items; the provision of support to Department of Homeland Security and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Bureau of Immigration and Customs Enforcement; and, at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $175,000,000, which shall remain available until expended: *Provided,* That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to Bureau of Immigration and Customs Enforcement requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security, during fiscal year 2004 without the prior approval of the Committees on Appropriations.

AMENDMENT NO. 7 OFFERED BY MR. LOBIONDO

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. LOBIONDO:

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 mount 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)''.

Mr. LOBIONDO. Mr. Chairman, I rise today to offer an amendment that continues my campaign and the campaign of many others to ensure that our maritime security efforts have as much resources available to defend against the potential disaster of an attack at one or more of our ports. My amendment would increase funding for the Coast Guard by $110 million; $35 million would go to fund the congressionally mandated review and approval of approximately 10,000 facilities and vessel security plans that owners and operators must submit to the Coast Guard next year; and $75 million to help get the critically needed Deep Water Acquisition Program back on track.

My amendment would provide roughly half of what has been requested for support by the Coast Guard for these programs.

□ 1545

Tomorrow in the full Committee on Transportation and Infrastructure session, we will be marking up the 2004 Coast Guard Authorization Act, which provides the funding for these important programs at the level requested and supported by the Coast Guard.

I would add that over 85 Members of the House have sent the appropriators a letter in support of our authorized level of funding.

At a May 22 hearing before my subcommittee, the commandant of the Coast Guard explained that the Coast Guard would need an additional $70 million to fund 150 full-time personnel to review and approve of the Vessel and Facility Security Plans mandated by the MTSA. If these plans are not reviewed and approved by the Coast Guard within a year of its submission, the owners will not be allowed to operate their vessels in U.S. waters, and noncompliant port facilities would be shut down.

With 95 percent of our Nation's trade entering and leaving our ports, this will have a chilling effect on our economy. Moreover, without additional funding to meet this congressionally imposed mandate, the Coast Guard will have to divert precious resources and personnel from other traditional missions, including search and rescue, drug interdiction, and fisheries enforcement. My amendment would provide $35 million for this purpose, half of what is needed.

At a June 3 hearing before my subcommittee, the commandant announced his support for the $702 million in funding for Deepwater. This level of funding represents what is needed to counteract 3 years of underfunding and would get the program back on track.

The Coast Guard operates the second oldest naval fleet in the world, and some assets have been commissioned since World War II. Nearly half of the 110-foot Patrol Boat Fleet is in immediate need of repair for structural deterioration and has cost over 6 months of lost patrol days on the west coast. On average, the High Endurance Cutter Fleet is having a fire in their main engineering spaces on every patrol, and the fleet's main search and rescue helicopter is equipped with radar designed and installed nearly 20 years ago. Therefore, the successful and timely implementation of Deepwater would ensure that the Coast Guard would have the modern assets necessary to respond to any threats necessary.

Mr. Chairman, I understand the very difficult decision-making process that confronted the appropriators in drafting this bill. I commend the gentleman from Florida (Mr. YOUNG) and the gentleman from Kentucky (Mr. ROGERS) for their work, and at this point I would indicate my willingness to withdraw my amendment if the gentleman from Kentucky (Mr. ROGERS) would be willing to enter into a colloquy with me.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise to oppose the amendment.

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

Mr. ROGERS of Kentucky. I yield to the gentleman from New Jersey.

Mr. LOBIONDO. Mr. Chairman, will the chairman enter into a colloquy with me on this subject?

Mr. ROGERS of Kentucky. I certainly will.

Mr. LOBIONDO. Mr. Chairman, as I have said, I am willing to withdraw my amendment if the gentleman agrees to work with me as the bill moves forward to increase funding for the Deepwater program and provide additional funding for the review and approval of the Vessel and Facility Security Plans.

Mr. ROGERS of Kentucky. I thank the gentleman for his advocacy on behalf of the Coast Guard, and he has been a champion at that for his entire career in the Congress.

While I cannot support his amendment, I do recognize the need to provide additional funding for Deepwater and for the administrative costs associated with the review and approval of the congressionally mandated facility and vessels security plans. I look forward to continuing to work with the gentleman from New Jersey to ensure adequate resources are made for these priorities in fiscal 2004.

Mr. LOBIONDO. Mr. Chairman, I thank the gentleman for his leadership on this issue and recognize the very difficult decision-making process he was confronted with in development of this bill.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as Members of Congress, our first responsibility set forth in the preamble to the Constitution is to provide for the common defense. In our time, the common defense means protecting our homeland from terrorists, as well as from traditional military threats to our interests at home and abroad.

The consideration of the first-ever appropriations bill for the Department of Homeland Security could have been a historic opportunity to demonstrate our commitment to the common defense by addressing some of the most glaring deficiencies in our Nation's security. Sadly, it is yet another missed opportunity.

The Republican's Homeland Security bill does not provide the resources necessary to do the job. The Republican bill does not meet the broad needs of our ports, our borders, our air transportation system, and other critical parts of our infrastructure.

In determining the Nation's priorities, the Republican majority has chosen to cut taxes for those who need it least, while shortchanging the homeland security needs of everyday Americans. The gentleman from Wisconsin (Mr. OBEY), the Committee on Appropriations ranking member, showed great leadership with an amendment to provide for America's security, to provide for the common defense, to protect the homeland.

The amendment would have provided an additional $1 billion to improve homeland security by adding $500 million to port security, everyone recognizes that is the minimum figure that is needed to protect our ports; $100 million to assist in the development of an automated vessel tracking system; $200 million to pay either for a year-round air and marine interdiction program at our northern border or to increase to 6,900 the number of agents patrolling the northern border by the end of fiscal year 2004; $150 million in security grants to airports and overseas maintenance facilities; and, finally, $50 million for vulnerable assessments at critical infrastructure locations.

Where would this $1 billion come from? The Obey amendment would be paid for by rolling back the tax cut for millionaires, that is, people making $1 million per year. People making $1 million a year or more would have their tax cut cut from $88,326 to $83,326. For that $5,000, for the 200,000 people making over $1 million a year, by reducing their tax cut from $88,000 to $83,000, America can be much safer.

What would my colleagues choose, to protect the American people or to give $5,000 more to people making $1 million a year or more?

Mr. Chairman, success in both the war on terrorism and the effort to better protect our Nation and its people will require a sustained effort and a resolve lasting many years. This bill should have been a testament to that resolve; but sadly, it is not. We need to act now to protect the American people.

Recent history suggests that our security could be tested anytime and any place. We know what our exposure is, what our vulnerabilities are. The gentleman from Wisconsin (Mr. OBEY) addressed them in his amendment. We must take every step to be ready. We have that responsibility.

Providing for the common defense is enshrined in our Constitution as one of our highest responsibilities. Its importance as a national priority is not reflected in this bill.

I want to commend the gentleman from Wisconsin (Mr. OBEY) for his leadership, the gentleman from Minnesota (Mr. SABO) for his as well, and it is with the highest regard for the chairman of the subcommittee who has served in this House with great dignity that I regret opposing what has been put forth by the Republican leadership on the floor today. It again misses an opportunity for the American people.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to enter into a colloquy with the distinguished gentleman from Kentucky. I would like to address the issue of how our national emergency preparedness and response plan addresses older Americans, the disabled, and others with special needs.

Our experience with the horrible attacks of September 11, 2001, exposed gaps in our response plan as many elderly and disabled people living near the World Trade Center were trapped for days before receiving assistance. Successive evaluations have identified particular problems, including lack of coordination in city-wide community services, lack of a system to identify and locate older and disabled people, and lack of access to necessary public information both before and after an emergency.

I believe this issue is of great importance in the event of a future terrorist attack and I look forward to working with the gentleman in addressing this great need.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I want to thank the distinguished gentleman for his very thoughtful comments and agree that the needs of older Americans and those with special needs should be addressed. I look forward to working with the gentleman on this important issue.

Mr. REGULA. Mr. Chairman, I thank the gentleman for his comments.

Ms. MCCARTHY of Missouri. Mr. Chairman, I move to strike the last word.

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Chairman, I want to commend both the majority and the minority members and the appropriations staff for their hard work on this first homeland security appropriations bill. I realize that this has been a formidable task.

Never the less, I am concerned that we have not given enough debate to issues raised by our state and local government officials and our local first responders.

For instance, fire fighters in Kansas City have told me that we must develop and fund an infrastructure to communicate effectively with agencies in the same community as well as surrounding communities during times of crisis.

Moreover, our local public health officials must have the necessary resources to be adequately prepared to cope with emergencies, particularly bioterroist attacks.

As the ranking member of the subcommittee on intelligence and counterterrorism of the select committee on homeland security, I question the Department of Homeland Security's ability to provide accurate and timely intelligence assessments, including bioterrorism threats to this country with the limited resources provided in H.R. 2555.

I thank the chair for the opportunity to address these important issues, and hope that in conference the additional funds called for by the ranking member, Mr. OBEY (the gentleman from Wisconsin) will be included.

The American people deserve such protection. Our first responders deserve such resources to assure the protection of the people they serve.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to Public Law 107–71, $3,679,200,000, to remain available until expended, of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided,* That of such total amount, not to exceed $1,672,700,000 shall be for passenger screening activities; not to exceed $1,284,800,000 shall be for baggage screening activities; and not to exceed $721,700,000 shall be for airport support and enforcement presence: *Provided further,* That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and used for providing civil aviation security services authorized by that section: *Provided further,* That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2004, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $1,609,200,000: *Provided further,* That any security service fees collected in excess of the amount appropriated under this heading shall be treated as offsetting collections in fiscal year 2005: *Provided further,* That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners: *Provided further,* That of the total amount provided herein, $235,000,000 shall be available only for physical modification of commercial service airports for the purpose of installing checked baggage explosive detection systems and $100,000,000 shall be available only for procurement of checked baggage explosive detection systems.

AMENDMENT OFFERED BY MR. TERRY

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

The Clerk read as follows:

Amendment offered by Mr. TERRY:

Page 11, line 12, insert after the dollar amount the following: ''(reduced by $20,000,000)''.

Page 16, line 23, insert after the dollar amount the following: ''(increased by $10,000,000)''.

Page 17, line 3, insert after the dollar amount the following: ''(increased by $10,000,000)''.

Page 22, line 1, insert after the dollar amount the following: ''(increased by $10,000,000)''.

Mr. TERRY. Mr. Chairman, this amendment is simple in the sense that what it does is it provides 20 million additional dollars for our first responders, and it takes it from a flush, although well-improved, Transportation Security Agency.

I want to start off by complimenting the gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee. Most of the time when an amendment is offered, it is because that person has disagreed philosophically with the direction of that particular appropriation. I am here to compliment the chairman and say that I agree with his priorities, Mr. Chairman, and two of those priorities that he has provided are an extra $1 billion of funding for our first responders above the President's request. He has also decreased to bring down the number of TSA agents in our airports, and I greatly appreciate both of those.

My goal here today is to improve on what the gentleman has already done, Mr. Chairman. I would like us to take an even bigger step in helping our first responders.

When we look at our homeland security today, we rely a great deal on our fire, police and emergency services; and while we talk about a new Homeland Security Department and funding that Department, most of the people receive a vision of a top-down system that comes from Washington, D.C., down to the local levels. But the reality is when an emergency occurs, when a terrorist attack occurs, whether it is in Oklahoma City or Omaha or New York City or Washington, D.C., the first people on the scene, to take control of the scene, to rescue those that have been injured or killed in the security area are our first responders.

□ 1600

I do not think we can do enough to provide them the proper training and the proper equipment. I have talked to our police officers, who call themselves blue canaries, because they know that when an emergency occurs, when they run into those buildings to secure the areas, they say they know it is biological or chemical or deadly when they keel over. Well, I think when we have a national security policy, a homeland security policy that relies on them, I would like to provide them additional dollars.

Now, why the TSA? I think most of us that go through airports can tell of personal examples with what appears

to be a very flush budget in the respect of seeing the number of white shirts with patches standing around. In fact, at my airport in Eppley, just a few months ago, there was an extremely long line, as there was on Monday morning, but they only had one of the stations open. And I asked the person why there was only one security station open when there were as many as 10 twelve white shirts standing around, and I was told, quote-unquote, they are on break. I called our new security administrator for Eppley and he told me it was broken down. Now, the people on the scene had a different opinion. But that is just one example.

Unfortunately, over the last few months what we have also seen is not only the vast number of employees standing around but the vast number of passengers standing in extremely long passenger lines. Last week, at Reagan National, it literally went out the door. It literally went out the door, yet there were many employees there working. How does that happen, when there is more employees than there were before and the lines are two or three times longer? We are having record numbers of people standing in lines and a number of complaints coming into our office about our own airport.

Now, I go through a lot of airports, and I have talked, Mr. Chairman, to several people in charge of these airports. I get really extremely harsh critique of TSA from airport administrators. In fact, one told me that he wanted to find out the background of the security administrator appointed to their airport to see if this person had any experience with civil airports. TSA denied the request, so a Freedom of Information Act was filed and that was denied on PATRIOT Act grounds. So we do not even know if the people being appointed have any experience in providing security.

At least in Omaha, Nebraska, I know there were two or three people that would have been grade-A-plus in security, yet they were denied for someone we do not even know the background of. And how many of us have similar experiences to tell?

So, Mr. Chairman, I understand your position and I respect it, but I stand by my amendment to help our first responders.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to the amendment.

Let me say, Mr. Chairman, I reluctantly, very reluctantly rise to oppose this amendment. The gentleman is a good Member, and he has expressed heartfelt thoughts here. And, goodness knows, I have expressed very serious and long-standing reservations about the number of screeners that TSA has deployed in airports throughout the country. But in the bill before us we already reduce the number of screeners by another 4,600 in fiscal 2004, and that is on top of the 6,000 screeners that will be laid off between now and September of this year. That would be a reduction from current levels, roughly, of some 10,600 less than we have now.

In the 2002 bill, when it was in Transportation, we capped the number of screeners at 45,000. This cut the gentleman would make would take us well below that cap. This further reduction of $20 million from the screener fund would require them to lay off another 500 to 1,000 screeners on top of what I just mentioned. That would take us well below the 45,000 level that we had set now for the 2 or 3 years in the Congress as the maximum level at TSA.

The monies the gentleman would take from TSA he would give to the first responders, and heavens knows we want to give them all we can, but in this bill, as the gentleman mentioned, we are already $1 billion for first responders above what the President requested, and some $200 million plus above what the current level of spending for first responders is. So I just think that it would be unwise to adopt this amendment, as much as I sympathize with the gentleman's philosophy in offering it.

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

Mr. ROGERS of Kentucky. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I would join the chairman in opposing the amendment. The committee and the chairman have been very tough task masters of TSA when it comes to the number of screeners. We have been urging them for a long time to use more part-time people and to make more efficient use of their personnel. On the other hand, if we get too harsh, there may be imbalance around the country in terms of where there are vacancies and where there are an overabundance. So if we get too tough, we can be very counterproductive.

I agree with the chairman that first responder money is important, but the committee has been very disciplined in dealing with TSA, and I would join the chairman in opposing this additional cut.

Mr. ROGERS of Kentucky. Reclaiming my time, Mr. Chairman, I thank the gentleman. I would rather that we let the TSA absorb these cuts that we already have in place, which will cut 10,600 screeners by the end of 2004. Let us do that before we take further steps. We can assess it at that time. If we still have a problem, I would be supportive of the gentleman's amendment. But for the moment, I think we have done just about enough.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska (Mr. TERRY).

The amendment was agreed to.

Mr. NADLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was intending to offer an amendment to this title of the bill, but the amendment is to increase the appropriation in the bill by $5 billion for the purpose of stationing American inspectors in every foreign port from where ships leave for the United States in order to inspect every container before it is put on a ship bound for the United States. Unfortunately, I could not find a $5 billion offset in this bill. What I wanted to do, obviously, was to reduce the tax cuts, the hundreds and hundreds of billions of dollars of tax cuts, by $5 billion to offset this. But the rules of the House do not permit that, so my hands are tied.

Let me address for a moment the necessity of this amendment, if not in this bill then elsewhere. The greatest danger this Nation faces, which we are not addressing in any real shape or form, is that some foreign terrorist group, al-Qaeda, whoever, or some rogue nation, will get hold of a nuclear bomb and attack the United States. We are spending about $100 billion on an anti-ballistic missile system ostensibly to meet that threat. But think about it a minute. The leader of any rogue nation who had a few atomic bombs and wanted to attack the United States would not put them on a missile, because a missile has a return address. We would know from where the missile came, if God forbid someone attacked American cities. That leader would know that if he launched nuclear-tipped missiles at American cities, his country would cease to exist, along with his regime and him, would cease to exist a half-hour later. So he would not put the atomic bombs on a missile, he would put them in a ship.

Mr. Chairman, six million shipping containers come into this country per year. We inspect less than 2 percent of them. Ninety-eight percent of those six million containers, for all we know, have atomic bombs in them. It does not do any good to inspect them in Newark or New York or Los Angeles where they night explode. I know Secretary Ridge and others are saying we are going to set aside a few hundred million dollars and send some inspectors to foreign ports to look at some high-risk containers. High risk? Well, if we look at the high-risk containers, the bombs will be in the low-risk containers, or at least those that used to be low risk.

Mr. Chairman, the catastrophe that could be caused from one atomic bomb in an American city would make 9/11 look like child's play. That catastrophe would cost half a million lives immediately, probably trillions, trillions in economic damage. We cannot afford to risk one nuclear explosion in an American city. President Bush said, when he was trying to motivate a war with Iraq, that we could not wait for the mushroom cloud. Well, I am not so sure the facts justified that reference with respect to Iraq, but they most certainly justify that reference with respect to six million shipping containers coming into this country with God knows what inside.

So, Mr. Chairman, my amendment that I would have offered, if the majority did not prevent me from offering this amendment, would have appropriated $5 billion, which is little

enough for this purpose, and would have sufficed to enable an American inspection team to see to it that no container, not one container, is put on any ship bound for the United States in a foreign port until that container is searched and sealed and certified by an American inspection team in the foreign port to say there is no weapon of mass destruction on board that.

Mr. Chairman, if we do not do this, during the war that we are engaged in now and maybe for the next 10, 20, 30, or 40 years with the terrorists, then we ought to have our collective heads examined. Any American city could be destroyed, millions of lives lost by one atomic bomb in any container in any ship. We cannot afford not to spend the money to search and inspect every single container, whether our intelligence people think it is a high-risk or a low-risk container, every container in a foreign port with an American inspection team to make sure there is no weapon of mass destruction on board that container.

For $5 billion, Mr. Chairman, we could do that. Five billion dollars a year. Compare that to trillions of dollars in tax cuts that we have passed in these last 2 years. Where does the risk lie for the American people? I would urge, and I would challenge the Bush administration to make the $5 billion a year available and to institute this and to say to foreign countries that no container gets put on a ship in their port without being inspected first by an American inspection team.

And, by the way, if they did not want an American inspection team in their ports, that is fine, they are sovereign, but they cannot ship anything to the United States. We must hermetically seal this country from nuclear bombs possibly contained in ships, and this is the only way to do it. The failure of this Congress and of the administration to deal with this subject seriously is one that I hope will not result in cataclysmic catastrophe for the American people.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I could not let the gentleman's statement go unanswered. We cannot talk in this forum about all that we are doing at our ports in searching container freight and other freight. I would be happy to talk to any Member privately about it, but we cannot talk about all that we are doing in a public forum because it is sensitive information.

However, the Customs and Border Protection Agency tells me that they are inspecting 100 percent of all high-risk cargo based on collecting advanced information such as manifests, intelligence, and targeting systems. I have had the experience of going to some of those ports myself and watching the operation. Watching as we use the equipment on these containers that we do search and then the ones that we physically search.

The 2003 spending bill had monies in it for a thing called the Container Security Initiative, essentially operating at about 20 megaports and several smaller ports all over the world. The idea is to push the perimeter of defense off of our shores. We all know if a bad container gets to us, it is too late. If you catch it only when it comes to your port, it is too late. So we have moved offshore to 20 megaports now, places like Rotterdam, Singapore, and the like, and inspecting and searching and securing containers before they ever sail for America.

□ 1615

Mr. Chairman, the bill provides $62 million to expand that to 30 megaports around the world and especially those in very sensitive parts of the world.

Now we already have in place $165 million from the wartime supplemental that we passed for additional inspectors, agents, technology and $129 million for additional inspection technology in this bill. Those monies will be used to push the border out to these 30 foreign seaports through the Container Security Initiative, but there is also $12 million for government-private partnerships to tighten security in private facilities and $3 million to continue what is called the Operation Safe Commerce to make smart containers and our supply chain even more secure.

I want Members to know that we are focusing exactly on what the gentleman has talked about, and that is container freight. There are more than 17 million containers a year, there is 17 million a year; 7 million comes by sea, 12 million by land across our borders with Mexico and Canada. It is a huge problem to deal with.

However, if we stop and search physically every single container regardless of whether or not it looks to be suspicious for some reason, we would absolutely shut down commerce in the world. So much of our commerce depends on the container freight business. I think we are going about it the sensible way. I am convinced after having visited several ports, spending a lot of time with the folks that are doing this, looking at the machinery and the results and how they go about doing it, that we are doing as good as we can in the span of time that we have had. Obviously it is going to get better. We are going to keep pushing at it. That is the reason we have loaded this bill down with money for that very purpose. I thank the gentleman for bringing this issue to us so we can discuss it.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to pick up where the last two speakers spoke, and that is the question of port security and what we know or do not know about the 20 million containers that come across America's borders every year, come by truck and train traffic, and the rest through ports.

I have to say that I appreciate that the committee is doing a lot. The question is when will the committee be done doing its work, and when will the Nation say that it knows enough about the containers coming into its ports. I am not sure that we can inspect every port, but what is very clear is the amount of information that we have to have about these containers from the point of origin to the time that they embark for the United States is incomplete. Even the effort to go into the megaports, which I think is important since some 80 percent of the commerce is shipped through those ports, that does not tell us, that does not give us the kind of information about the containers even coming to the megaports. That is what has to be established. A system, a credible system has to be established so those individuals responsible for the security of this Nation and the movement of those containers across the borders of this Nation are able to make an assessment as to the security of this Nation posed by those individual containers.

We are not going to be able to inspect every one of them because commerce is not going to allow us to do that. It would break down the system. But we can require a great deal more information about the contents of that container, the sealing of that container, the movement of that container, through electronic locks, through GPS systems, so we can start to trace that. Then we can make our decision upon risk. But by the time that container gets into the port of Hamburg or Hong Kong or Long Beach or Oakland, California, it is too late. If one of these container goes up with a dirty bomb, you will shut down the globalized container system in this world because we then will have to inspect every container. That is too late. That is far too late.

The terrorist does not just have to strike. As we saw, terrorists now understand that beyond the initial act are the economic consequences. They now see what that means. But if they are going to come to the United States and they want to do our people harm, they put in a nuclear device, they put in a dirty bomb, inspecting it in the Port of New York, the Port of Long Beach or the Port of Oakland is far too late. It does not matter if it goes up on the ship once it comes through the Golden Gate, if it goes up on the port property, or it goes up on the railroad train, that is too late. Of those, we are inspecting 2–4 percent of the containers.

At some point we have to establish a deadline so that people will know, as the gentleman from New York (Mr. NADLER) said, if they want to engage in commerce in the United States, an inspection system has to be in place going back to the point of origin to follow that container all of the way.

We did this in the oil spill liability provisions after the Exxon Valdez. We said in 25 years if you want to continue to have access and ship petroleum products to the United States, you will do it in double-hulled ships. We should

be saying to the shippers, to international commerce, by 2004 or 2005 if you want to continue to have access, you have to provide for this monitoring of cargo, for the transparency of the system and the monitoring of the ships.

We have some 40,000 ships roaming around the world with containers on them. This is the kind of system that the American public is entitled to, and why so. As the gentleman from New York (Mr. NADLER) pointed out, many of the experts which have been briefing Congress since September 11, 2001, have been telling us we are more likely to have a dirty bomb come into this country by way of container than we will ever have the risk of it coming in by way of missile. That is the threat to the home front. That is the major threat.

What we see here, while we are taking these incremental steps and I applaud many of them, we do not have a plan for deciding at what point this is going to be a secure system. We have to start putting deadlines on the transparency of this system, on the security of this system, and access to the American markets. That is how we are going to get unified system.

The gentleman from New York is right. The Container Security Initiative, the Operation Safe Commerce, the Customs Trade Partnership Against Terrorism are all important initiatives, but they are taking too long. They are taking too long. What is the price of security? What is the price of the home front? What is the price of a secure port system and a secure transportation system? Those are the questions we have to start asking ourselves, not whether we have put in another $100 million or $200 million; is the system secure. Right now we cannot tell the American public that in the foreseeable future that our system is secure.

The CHAIRMAN. Are there any further amendments to this paragraph?

If not, the Clerk will read.

The Clerk read as follows:

FEDERAL AIR MARSHALS

For necessary expenses of the Federal air marshals, $634,600,000, to remain available until expended.

MARITIME AND LAND SECURITY

For necessary expenses of the Transportation Security Administration related to maritime and land transportation security grants and services pursuant to Public Law 107–71, $231,700,000, to remain available until expended: *Provided*, That of such amount, $100,000,000 shall be available only to make port security grants, which shall be distributed under the same terms and conditions as provided for under Public Law 107–117.

INTELLIGENCE

For necessary expenses of the Transportation Security Administration related to transportation security intelligence activities, $13,700,000, to remain available until expended.

RESEARCH AND DEVELOPMENT

For necessary expenses of the Transportation Security Administration for research and development related to transportation security, $125,700,000, to remain available until expended.

ADMINISTRATION

For necessary expenses of the Transportation Security Administration for administrative activities, including headquarters and field support, training, and information technology, $487,100,000, to remain available until September 30, 2005.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For the necessary expenses of the Federal Law Enforcement Training Center, $136,629,000, of which $26,635,000 shall be for material and support costs of Federal law enforcement basic training and shall remain available until September 30, 2006, and of which not to exceed $12,000 shall be for official reception and representation expenses: *Provided*, That notwithstanding any other provision of law, the Center is authorized to expend appropriations for the purchase of police-type pursuit vehicles without regard to the general purchase price limitation; student athletic and related recreational activities; conducting and participating in firearms matches and the presentation of awards for such matches; public awareness and enhancing community support of law enforcement training, including the advertisement and marketing of available law enforcement training programs; room and board for student interns; short-term medical services for students undergoing training at Center training facilities; travel expenses of non-Federal personnel attending course development meetings; services authorized by section 3109 of title 5, United States Code; support of Federal law enforcement accreditation; and a flat monthly reimbursement to employees authorized to use personal cell phones for official duties: *Provided further*, That (1) funds appropriated to this account may be used at the discretion of the Center's Director to train United States Postal Service law enforcement personnel, State and local law enforcement personnel, foreign law enforcement personnel, and private security personnel; (2) with the exception of private security personnel, the Center's Director is authorized to fully fund the cost of this training, including the cost of non-Federal travel, or to seek full or partial reimbursement for this training; and (3) such reimbursements shall be deposited in this appropriation: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training at the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the Center is authorized to accept and use gifts of property, real and personnel, and to accept services, for authorized purposes: *Provided further*, That the Center is authorized to harvest timber and use the proceeds from timber sales to supplement the Center's forest management and environmental programs: *Provided further*, That notwithstanding any other provision of law, students attending training at any Center site shall reside in on-center or center-provided housing, to the extent available and in accordance with Center policy.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $32,323,000, to remain available until expended: *Provided*, That the Federal Law Enforcement Training Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities on training centers operated by the Federal Law Enforcement Training Center: *Provided further*, That notwithstanding any other provision of law, all facilities shall remain under the control of the Federal Law Enforcement Training Center, which shall be responsible for scheduling, use, maintenance, and support.

OFFICE FOR DOMESTIC PREPAREDNESS

DOMESTIC PREPAREDNESS

For grants, contracts, cooperative agreements, and other activities of the Office for Domestic Preparedness, as authorized by the Homeland Security Act of 2002 (Public Law 107–296) and the USA PATRIOT Act of 2001 (Public Law 107–56), $3,503,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading—

(1) $1,900,000,000 shall be for basic formula grants;

(2) $500,000,000 shall be for grants to State and local law enforcement for terrorism prevention activities;

(3) $200,000,000 shall be for critical infrastructure grants;

(4) $500,000,000 shall be for discretionary grants for use in high-density urban areas and high-threat areas; and

(5) $35,000,000 shall be for grants for Centers for Emergency Preparedness:

Provided further, That the application for grants appropriated in subsections (1), (2), and (3) under this heading shall be made available to States within 30 days of enactment of this Act; States shall submit applications within 30 days of the grant announcement; and the Office for Domestic Preparedness shall act on each application within 15 days of receipt: *Provided further*, That 80 percent of the funds appropriated in subsections (1), (2), (3), and (4) under this heading to any State shall be allocated by the State to units of local governments and shall be distributed by the State within 60 days of the receipt of funds: *Provided further*, That section 1014(c)(3) of Public Law 107–56 shall not apply to funds appropriated in subsections (4) and (5) under this heading: *Provided further*, That none of the funds appropriated under this heading shall be used for construction or renovation of facilities: *Provided further*, That funds appropriated in subsections (3) and (4) under this heading shall be available for operational costs, including personnel overtime as needed.

AMENDMENT NO. 2 OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment No. 2 offered by Mrs. MALONEY:

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)''.

Mrs. MALONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Kentucky (Mr. ROGERS) reserves a point of order.

Mrs. MALONEY. Mr. Chairman, the al Qaeda has not gone away, and we know al Qaeda does not choose its targets at random, it chooses targets to inflict the greatest numbers of casualties, to do the greatest damage economically, and to get the most publicity. Just last week, we were reminded that New York is still a target when the Attorney General announced that an al Qaeda terrorist was targeting the Brooklyn Bridge. He was deterred from attacking the bridge by the efforts of the New York Police Department.

This is just one example of how since 9/11 a large share of the burden of providing for the national defense has fallen on our cities. In Congress we have provided some funds to help. We even sent part of the money to where the need is. In fiscal year 2003, we provided $2.9 billion for grants to State and local governments to help them prepare for and defend against terrorist attacks. We even said that $800 million of that should be directed to where the threat is greatest. That is about 30 percent. The rest of the fund went out under a formula that is entirely unrelated to where the terror threat is.

Under this bill as it is currently drafted for the next fiscal year, that 70 percent will increase to nearly 83 percent. Our effort to protect the most likely targets of terrorism is moving backwards. We are cutting the funds to the Nation's most threatened cities by almost 40 percent, by $300 million, from $800 million to $500 million, and we are increasing the percentage that will go under the formula that is unrelated to potential threat, a formula that Secretary Ridge has repeatedly said is inappropriate and must be changed.

This formula sends the money where the threat is not. Just yesterday Secretary Ridge himself said of the high threat money and I quote, ''I would like to see the number significantly higher than $500 million.'' He went on to say, ''At the end of the day, I do believe that there are some communities and regions that need more money.''

My amendment will simply follow Secretary Ridge's advice and restore funding for high-threat cities. I understand that this approach is subject to a point of order. I originally had wanted to shift money from another account, but the fact is this bill severely underfunds our security needs. Resources are too scarce to shift between accounts, but our cities need more funding. New York City spent more than $200 million over the last year on counterterrorism. The grants so far amount to $220 million for New York, but very little of that can offset the personnel costs that the city has identified at more than $900 million.

The assistance provided after the September 11 attacks paid for cleanup and replacement of equipment. It did not cover the security costs. This is not just an issue for New York and Washington, but it is a high-priority issue for many cities, including L.A., Chicago, San Francisco, New Orleans, Kansas City, Cincinnati, Houston and any city with a port or a mass transit system.

Mr. Chairman, it is our responsibility to appropriate the funds needed to protect the American people and this bill falls dangerously short. Respecting the request of the gentleman from New York (Mr. SWEENEY), who has worked very hard in a bipartisan way for New York City and State, I am withdrawing my amendment, also at the request of the gentleman from Kentucky (Mr. ROGERS), and I appreciate the commitment from the New York delegation, the gentleman from New York (Mr. HINCHEY), the gentlewoman from New York (Mrs. LOWEY), and the gentleman from New York (Mr. SERRANO) along with help from the gentleman from Minnesota (Mr. SABO) and the gentleman from Wisconsin (Mr. OBEY) to restore this in conference.

□ 1630

I appreciate very much the leadership of the gentleman from Minnesota (Mr. SABO) and the gentleman from Kentucky (Mr. ROGERS).

Mr. Chairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all I want to quote Secretary of Homeland Security Ridge from an Associated Press article yesterday. This is what he said:

''At the end of the day, ladies and gentlemen, if you take a look at the population, the density of population, the critical infrastructure and the threat, there's one city that no matter how you move those factors around or weigh those factors, there's one city at the top of the list and it's New York City.''

I want to associate myself with the gentlewoman from New York (Mrs. MALONEY), the things that she said. We will have other people from the New York delegation speaking about this as well, because we feel very, very strongly about getting the money for homeland security for New York City which is obviously, as Secretary Ridge said, the number one threat.

In fiscal year 2003, we provided $2.9 billion for grants to State and local governments to help them prepare for and defend against terrorist attacks. $800 million, or about 30 percent of that, was directed to high-threat areas. The rest of the fund went out under a formula that is entirely unrelated to where the terror threat is. Under this bill, as it is currently drafted for the next fiscal year, the 70 percent that is not related to high-threat areas will increase to nearly 83 percent. I believe that that is wrong.

Just last week a plot was uncovered, as my colleague said, to blow up the Brooklyn Bridge. Our intelligence agencies continue to say that New York remains a top target for terrorists and common sense would tell anybody the same thing. New York has been hit twice by radical terrorists. Thousands have died. We continue to rebuild; but to better ensure our safety and the safety of the world's financial capital, we need to better spend Federal tax dollars. When New York is hit by attacks, all Americans are hurt. The economic impact is all over the country. People in Montana, Oklahoma and Oregon, it affects everyone in this country when New York is hit by attacks.

I also had intended to offer an amendment to move $500 million from the State grant program to the high-threat program. I will not do that because I understand that there are needs across the country for assistance. Thus, it is obvious that this bill is not adequate to our needs as a Nation. I hope that we can somehow get around to the fact that we desperately need more money for high-threat areas. I would hope that in the negotiations between us and the other body that we would rectify this.

Why is this bill underfunded in my opinion? The answer is simple math. We have cut our revenues by trillions of dollars to pay for tax cuts. There is a trade-off, I believe, tax cuts or security. We believe that security is more important. My friend from Wisconsin wants to add an amendment to limit the tax cut for millionaires to just over $83,000 this year instead of the $88,000 they are set to get. I do not think it is too much to ask that people who have benefited the most in this great Nation pay $4,000 more for the security of all of us.

Mr. Chairman, I again hope that when we have our negotiations, when we have our conferences that we will be able to put more money where it belongs to protect high-threat areas like New York City.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the last word.

I am compelled again to talk about New York. All of us here are sympathetic, understanding, we want to help; but I feel compelled to lay out some facts that have not been laid out here. The fiscal year 2003 bill, we gave $800 million in that bill for the high-threat, high-density urban area grants and the discretion of the Secretary. $100 million of that was in the omnibus; $700 million was in the supplemental. However, that money has not been spent. There is $800 million laying there. Why? Because the grant application deadline for that first $100 million just ended on June 16, a couple of weeks ago, and has not been processed. The application deadline for the $700 million that was in the supplemental is not up until July 7. We have not processed the applications yet. Those moneys will be going out there, to New York and the other cities.

In addition to that, what I am saying is, I guess, have a little patience. Number two, when the President's request

came up to us for fiscal year 2004, there was no request for high threat, high-density urban grant moneys. Zero. The subcommittee worked on it, and we put in $500 million. Now people call that a cut. Boy, that is a strange use of the word. We increased it $500 million. If the Secretary thinks we ought to change that, then he needs to send us a budget supplemental and amend his request and we will consider it.

However, all of the other grant programs, and there are six or seven of them, there are basic formula grants, there are law enforcement terrorism prevention grants, there are critical infrastructure grants, there are firefighter assistance grants, there are emergency management performance grants, there are emergency operations centers grants, all of which New York is eligible to apply for. We increased those funds over what the President wanted us to by $1 billion. So that now there is $4.04 billion available in those grant programs immediately. I would guess just by the odds and by the importance of New York that when you apply for those grants with the increased numbers there, all of these grants, you are probably going to wind up with more money than you got this year. But, please, have patience and understand that the rest of the country is interested in this as well. We want to help you, but I ask for your patience and understanding.

Mrs. DAVIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendments offered by the Members from New York. While it is true that we do not know where the next attack may be and that the entire Nation is vulnerable, I believe that it is important to recognize those areas considered as high-threat and high-density. The gentleman mentioned that there are other cities involved and, of course, we know that. Take my own city of San Diego as an example. San Diego is home to nearly 3 million residents and hosts millions of tourists annually. It is one of the regions that I believe Secretary Ridge has spoken about. In fact, he voiced those concerns when he visited San Diego recently. We have an international border and ports of entry, a coastline, a seaport, a busy airport, several major highways, a mass transit system, large public venues such as SeaWorld and Qualcomm Stadium, site of the Super Bowl. We have numerous military bases and military housing areas, and even a nuclear power plant. Protecting such an extensive list of vulnerable areas requires significant resources. Yes, we are applying for a lot of that money. We are trying. We are doing our best.

Like all of my colleagues, I have heard from my first responders, from the sheriff's department, the police department, the fire department, the Coast Guard, the port authority, the Navy, the Marines and others about their struggle to protect our critical infrastructure. I believe that they are doing a fabulous job. But they need more, and they need our help. This is an important amendment. I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. BRADY OF TEXAS

Mr. BRADY of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRADY of Texas:

In title II in the item ''OFFICE FOR DOMESTIC PREPAREDNESS—DOMESTIC PREPAREDNESS''—

(1) in paragraph (1), after the dollar amount insert ''(reduced $200,000,000)''; and

(2) in paragraph (4), after the dollar amount insert ''(increased by $200,000,000)''.

Mr. BRADY of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BRADY of Texas. Mr. Chairman, I would first like to commend the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Florida (Mr. YOUNG) for their leadership and hard work on homeland security. I rise today in support of the Weiner-Brady-Fossella amendment to make our homeland security budget smarter and more targeted to high-threat areas. We are at war in this war on terrorism. In war, there are likely targets and there are less likely targets. You protect them both. I know that Chairman ROGERS and Chairman YOUNG have fought hard to make sure we do exactly right, protect both likely targets and less likely targets.

What this amendment does is focus on those communities, on those States that will likely be and have been identified as high-threat, high-density urban areas. The States that have these high-threat communities include much of our country, New York and California, Texas and Illinois, Arizona and Colorado, Florida, Hawaii and Georgia, Massachusetts and Maryland, Michigan and Missouri, New Jersey, Ohio and Pennsylvania, South Carolina, Tennessee, Washington and the District of Columbia, all States that are host to urban areas that are at high risk and high threat of a terrorist attack. This amendment targets $200 million and shifts it to the high-threat, high-density urban area funding. Part of the community that I represent, Houston, Texas, is on that list of top 10 communities. It is, I would imagine, as a result of both communications from al Qaeda terrorists, from information received from interviews with al Qaeda operatives and Houston is, of course, the energy capital of the world. It is home to more than 50 percent of the oil and gas refining in this country. If you chose to target America's energy supplies, if you chose to bring this country down by taking down our energy pipelines or our oil and gas facilities, this is where you would start. But we are not the only community at high risk and high threat of a terrorist attack. There are many throughout this country.

What we seek from this amendment is making sure that these communities have a pool of money with that threat. More importantly, we make sure that when other communities are added to this list, when they suddenly become at high threat and a high-risk community, that when they come to the Federal Government for help, they are not told, we're sorry, we sent this money to other regions, less likely, less at risk, but that was the money we had. Unfortunately for all our efforts, and I know our government moves so slowly, even with the best intentions, I am afraid our communities do not understand our grant application process. I do not think they understand our time line. I think our communities are at risk today. We offer this amendment in good faith, recognizing just how diligent our chairman is in trying to protect communities of all size and all risk.

Mr. WEINER. Mr. Chairman, I move to strike the last word. I want to thank the gentleman from Texas, the gentleman from New York (Mr. FOSSELLA), the gentleman from New York (Mr. NADLER), and others with whom we have consulted on trying to come up with a way to answer some of the fundamental questions. First of all, I think that we can be of agreement because, frankly, every Member, including the distinguished chairman and ranking member, have said that yes, the total number of dollars is probably not enough and this is going to be an ongoing process to see to it that we do allocate enough money to this because, frankly, we have no choice.

I want to thank the gentleman from Kentucky, the gentleman from Minnesota, the gentleman from Wisconsin, and others who have worked so hard to get that number as high as we can get it. There also, I believe, can be no other answer but yes to the question, do some areas have greater costs than others? Are there greater costs in ports of California, in States like New York? I will give Members an example. It is costing New York City $13 million a week to deal with the needs of homeland security. A week. If you drive over the Brooklyn Bridge at 3 o'clock in the morning on a weekday morning, you will find both lanes inside closest to the stanchion with a fixed patrol car sitting there all day, all night, because of the national security threat that exists. That is more police man-hours than many police departments, and that is something that New York is absorbing because of these risks.

Another question that is a little tougher to answer, but I know how I would answer it, is who should decide how homeland security funds get divided? Should it be my distinguished colleagues on the Committee on Appropriations and those of us in this body,

or should it be Secretary Ridge and the administration? I vote for the gentleman from Kentucky and the gentleman from Minnesota and others here in this body, but I think we should keep in mind what Secretary Ridge has said.

□ 1645

Secretary Ridge has said very clearly, in fact, just within the last 24 hours, that he believes that the present way we are distributing the money should be changed. He said ''distributing those dollars according to the old formula, I don't believe we get maximum security for the dollars that are expended at the national level.''

This is continuing the quote: ''I'd like to see the numbers significantly higher than $500 million.''

He goes on to say, ''I think every State should be given a certain amount of money,'' a sentiment that I agree with, ''but at the end of the day, I do believe that there are some communities and regions that need more money.''

Continuing the quote: ''I have concerns about the distribution formula, [where] We just basically send out dollars to States and localities on a formula that doesn't consider infrastructure, doesn't consider anything other than population.'' I do not believe that is where are we at this House, and frankly I do have great confidence in my colleagues deciding how to distribute the money, but we do have to recognize that this is not just a New York City issue, as the chairman alluded to previously. This is an issue that affects about 30 different States and localities all around the country. The gentleman from Texas articulated the needs of his district. Others have come to this floor and talked about their cities and States. The fact remains that there are certain places that unfortunately are more likely today to be targets of terrorist attack than others and have to take steps that cannot be avoided. If for no other reason, many of the trials that are being held of those that are accused of terrorism are being held in New York City. Just the enforcement costs in Washington, D.C. and suburban Virginia, in New York City, in Chicago, Illinois in one case, just those costs are much higher than they are elsewhere. There has been a large increase in the overall basic formula grant, and I think the committee deserves great credit for this. What this amendment seeks to do is take the $700 million that was allocated last year, increase the $500 million to that $700 million. That still provides a $700 million increase in the basic formula grant, and I believe that that is a healthy step.

I, however, want to say in closing, I want to close the way I began, I do believe that the chairman in his colloquy that he entered into earlier has clearly articulated his desire to get the money where it needs to go. I do believe that this is an amendment that gets the chairman and gets our House to that place.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I would like to ask the gentleman from Kentucky (Mr. ROGERS) a question.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SABO. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I would be happy to answer a question.

Mr. SABO. Mr. Chairman, did I just hear correctly a little while ago that the Secretary's request of our committee for the high-threat urban grant was zero?

Mr. ROGERS of Kentucky. That is correct.

Mr. SABO. And our committee has recommended what?

Mr. ROGERS of Kentucky. Five hundred million.

Mr. SABO. Five hundred million. And this goes to a limited number of communities in the country?

Mr. ROGERS of Kentucky. It goes to the so-called high-threat/high-density urban areas of the country, and I think they are talking probably of 20 cities or less, in the complete discretion of the Secretary.

Mr. SABO. Which criteria that many of us have trouble understanding yet. The balance of the money flows by formula to the States, including the States that are eligible for this additional $500 million?

Mr. ROGERS of Kentucky. That is correct.

Mr. SABO. Reclaiming my time, for those of us who come from the heartland of the country, we are having discussion over how much money should go to ports. We have allocated a significant amount, and others would like to allocate more. My assumption is most of that goes along the coast.

Mr. ROGERS of Kentucky. I would guess so. But there are not many ocean ports in Minneapolis, I do not think.

Mr. SABO. No. We do have a river one but fairly small. So I think it would be fair to say we made a special effort to try to allocate more money to ports, that that will go to a limited part of the country.

Mr. ROGERS of Kentucky. That is correct.

Mr. SABO. But we find that when we raise threat levels in this country, the law enforcement and local responders are expected to respond throughout the country and they have the same problem over time, training, teaching people how to use new equipment, wondering what it means, increasing pressure on local law enforcement. What I hear from all of them is that their expenditures exceed whatever revenue they are getting from the Federal Government. I expect the gentleman hears the same thing.

Mr. ROGERS of Kentucky. I hear the same thing every day.

Mr. SABO. And this amendment, as I understand it, would take some of this little money that we distribute throughout the country and say we are going to cut that from everyone. Where they are working, trying to coordinate expenditures to make most efficient use of it, take it from that and give them to a few areas where we have already increased the administration's budget by $500 million; am I right?

Mr. ROGERS of Kentucky. That is the way I understand the amendment. It would take $200 million away from all the States in order to beef up this cap from $500 million to $700 million just for the high-density/high-urban area grants.

Mr. SABO. Reclaiming my time, and this is money that local responders can use for buying new equipment in a coordinated fashion, in a State plan or for training to have them become equipped to meet the threats that may occur in this country?

Mr. ROGERS of Kentucky. The gentleman is correct. In addition to that, as we have previously said, the subcommittee increased the amount of money for all of the grant programs of which there are seven, for firefighter grants and for infrastructure grants, emergency management grants, formula grants to States and cities and the like. All those grant programs, we increased by $1 billion above what the President wanted and $203 million more than the 2003 levels. So all of the States that have these high-density urban areas that would be eligible for the high-density grants will also be eligible for very larger pots of money that everyone else is trying to share with, and yet this amendment would take from that moneys and put it into the high-density/high-urban areas. We have gone through this in our subcommittee and in our full committee and we have labored with it and wrestled with it with the gentleman and in a bipartisan fashion from big cities and small, big States and small, and this was the best we could do. We think it is a fair way to do it. And to take the moneys from one area now and give it to another would open us up to an ugliness that I do not think we need to see in this battle.

Mr. SABO. Mr. Chairman, I thank the gentleman for his comments, and I think he has given good advice to the body.

Mr. FOSSELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in spite of the wonderful exchange, I rise in support of the amendment, and I have great respect for the Members here on both sides and what they go through in this process. It is a difficult one to question and constantly evaluating and balancing priorities.

My number one priority, as far as I am concerned, is to protect the American people. I think everybody in this Chamber supports that proposition. The question is how you would do that

the best way? We could do it in a lot of different ways. We can root out the terrorists overseas as our great brave men and women are doing in Iraq and Afghanistan and around the globe. That is one way. We have great local police departments and Federal law enforcement officials, intelligence officials who try to root out evil before it pops its head, and we can allocate funding to the places that need it the most. And I know there may be a fundamental difference as to where that money should go, and that is okay. But if the Members asked me how I stand up here and proclaim that not just New York City but those areas that we have defined as high-threat areas should get a disproportionate amount of this money, Exhibit A is September 11. Exhibit A demonstrates that the terrorists sought out places like New York City. Why? Because it is the capital of finance, the capital of the world in some people's minds, and, indeed, as we hope and pray they are not, but, indeed, they are out there trying to do the same thing right now. So if the Members ask me why we are here to try to shift the money to what we think is a priority, I think I would say I do not ever want to see something like September 11 happen again. And with all due respect to the towns and villages around the country that wrestle with this problem every day, I think it is common sense to suggest that some areas could be more targeted than others. I do not think there is an American who would not say every town is equal in that respect. So I would hope, and I take the chairman at his word because I have immense respect for him, for the people who he has around him, to work with us to ensure that not just New York City, but those urban areas full of American citizens get that funding they need.

It has been brought up before what Secretary Ridge says. I am not going to rehash it. I will submit it for the RECORD. New York City, counterterrorism, intelligence and public safety, $200 million; training for first responders, police, fire, $99 million; security enhancement for facilities, $187 million; emergency preparation response equipment, $189 million; communications and information technology, $223 million. Total loan, $900 million.

The gentleman from New York (Mr. WEINER) and the gentleman from Texas (Mr. BRADY), who offered this, the gentleman from New York (Mr. NADLER), and I know the gentleman from New York (Mr. SWEENEY) has worked hard. He mentioned the Brooklyn Bridge. Go to any bridge in New York City, any tunnel, 24 hours a day, people scanning cars, checking cars, checking trucks. Why? So that anybody coming into the city can feel more free and secure. That is what this debate is about. And I am hopeful that the good chairman once again, and I believe him, will follow through and use all existing systems to ensure that these cities and urban areas get what they deserve and get what they need.

TOM RIDGE. Well first of all, I share both the Governor's and the Mayor's concern to reduce distributing those dollars. According to the old formula, I don't believe we would be at maximum security with the dollars that are being expended at the federal level. We are going to work to get that number as high as possible. Having been a member of Congress for twelve years, that's the beginning of the process. The House has had a number in mind. They've passed that and we'll be working with the Senate. There's still a long way to go, but I would like to see the number risen, significantly higher than the $500 million.

REPORTER. Mr. Secretary, have you given the Governor and the Mayor a specific limit, a specific amount of money?

TOM RIDGE. No, I think we are all in agreement that it would have been a nice place to start with the 750. If we can get the Congress to restore that quarter of a billion dollars, that would be a great place to start. To finish there, that would be at least preserving the status quo. As for the supplemental, we got about $700 million and I think at least preserving what we are able to distribute before. At the end of the day ladies and gentlemen, if you take a look at the population, the density of the population, the equivocal infrastructure and the threat, there is one city that no matter how you move those factors around and weigh those factors it ends up at the top of the list and its New York City. I think every state should be given a certain amount of money and they build up a capacity to protect the infrastructure, and the capacity to respond, and the capacity to prevent a terrorist attack. But at the end of the day, I do believe there are some communities and regions that need more money because of the multitude of factors, not just population.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate, as do other speakers, the hard work of the members of the Committee on Appropriations and of the chairman and ranking member of the Appropriations subcommittee. The bill before us provides $500 million for 47 high-threat/high-density areas, 47 cities. People are talking about New York. We are talking about 47 cities that are high-risk areas, $500 million. The bill also provides, as I understand it, $1.9 billion for the rest of the country. Low risk or less than high-risk areas. The amendment would change that somewhat to make it $700 million for the 47 high-risk areas, $700 million for all 47 high-risk areas combined, and $1.7 billion the low-risk areas or less-than-high-risk areas in the rest of the country. By way of comparison, just keeping police officers on duty costs the City of New York, one high-risk area, $676 million a year. This amendment would make $700 million available to all 47 high-risk areas. So we are talking about a small fraction of what any of these high-risk areas are spending.

There is not enough being allocated, there is not enough that we could allocate, for all the high-risk areas and the rest of the areas. All some of us are saying here for New York, for Pennsylvania, for Illinois, for Houston, for Texas, for other high-risk areas is that we should be a little more rational in allocating the funds a little more on the basis of where the heavier expenditures are necessary because of where the risks are and how much it costs to guard against those risks and a little less on the uniform geographic basis which is the other half of this allocation.

□ 1700

Now, I understand, of course, that in the end the committee and the conference committee are going to make this allocation. What we are saying now is we want to bring to the attention of the body some of the considerations that say that there should be a little more rationale, rationality, to put a little more of the money for high-risk areas where so much more is necessary.

I appreciate the work that has been done by the committee and the work that will be done. I hope the committee will see its way clear to balancing this a little better, not for New York alone, but for the other 46 high-risk areas which have billions of dollars that have to be spent on this, not hundreds of millions.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

I would simply like to observe one fact, Mr. Chairman. I understand that one of the reasons why so many members of the New York delegation are exercised on this issue today is because Mr. Ridge, who is the head of the Homeland Security agency, was quoted in the newspapers saying that, yes, it was absolutely true, there ought to be more money for high-threat areas. That is very nice to hear him say that.

The problem is, his budget, the budget presented by the President on behalf of his agency, had not one dime in for that purpose, and this committee put in $500 million. It was $700 million that was put in in the omnibus just a few months ago.

So I appreciate the sentiments being voiced here today, but I would point out that since this House passed a tax package which has taken away this committee's ability to provide funding that we ought to be providing for this and other high-priority areas in this bill, it seems to me that at this point, rather than asking this committee to get a double hernia trying to do something which is fiscally impossible, given the budget caps that we have been provided, it seems to me what he ought to do is march down to the White House and tell the President to amend his budget and his tax bill so we can afford his legitimate request. Without that, to me, at this point, we are just flap-jawing and we are not going to have any real opportunity to help the areas of the country you are talking about, except by hurting other areas of the country.

The Republican tax package which my colleagues voted for on that side of the aisle has put us in this position

where, if we are going to deal with problems in one section of the country, we have to beggar thy neighbor. I am not very enthused about that. I think New York and other high-impact areas deserve this money, but I think the rural areas do too; and I would simply say that short as this bill is on this item, it does a whole lot better by that part of the country than the President's recommendation.

So the first thing I would say to Mr. Ridge is, go back to Washington and lobby your President, to ask him to put in the money that you told the New York folks was necessary.

Mr. SWEENEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to probably not take the full 5 minutes because, in part, I am going to reiterate some things that have already been said here on the floor: in part, the colloquy that the chairman of the subcommittee engaged in and, in part, in reflection of the last two amendments in particular, which I think point out the real difficult task this subcommittee, this chairman, and the ranking member faced in the course of putting together this plan.

In stating the obvious, I will agree with the ranking member of the overall committee. It is quite clear that there apparently has been a change at the administration; that the current plan or the current structure of the plan that was sent forward has changed significantly, certainly overnight, and it is somewhat reflective in the fact that my colleagues in the New York delegation have come to the floor and have argued vehemently. But they are not new to that argument. We have all been making the case that we are not quite sure whether there is enough money in high-risk, high-density funding in this particular program. But I can tell my colleagues that not anyone, Mr. Chairman, in this Chamber, in this House, and in this Nation can tell us whether we have appropriated enough at this point in time. That is exactly the point, exactly the point that I think the chairman of the subcommittee has been making.

Given the information we have now, given the money that has been appropriated and flowed out, given what we know in terms of the expenses, and we talked about it in that colloquy earlier, we are trying to meet those needs, that this House has recognized that needs exist in specific areas that rise to a certain level above what the rest of the community is, and that it is somewhat grossly unfair for us to have to make those determinations on where exactly all of this goes, taking possibly from one area unequally and giving to another area.

But it is absurd to make the point or argue that there is not enough money there. We have appropriated billions and billions of dollars, and what we see here in place is a work in progress.

I would say to my friends from New York especially, but to those from other parts of the country who have introduced the last couple of amendments who would like to see us take from one fund to the other, that that is not the appropriate course at this time, given the information that we have. I actually trust the notion that when we go to conference, the very people who created the high-risk, high-density fund, the gentleman from Kentucky (Chairman ROGERS), this subcommittee, are in the best place to determine what that appropriate funding is going to be; and I have every bit of confidence that we are going to be able to meet that need.

There has been an acknowledgment on this floor by the chairman, by this committee, that the work is incomplete; that there are needs that are going to be met. It is not just here in high-risk; it is in a lot of other places. But given the opportunity to examine that, I hear the call from the chairman, and I have every bit of confidence that we are going to be able to do that, equally covering the needs of the rest of the communities in our Nation to ensure the safety of the American people.

Mr. BRADY of Texas. Mr. Chairman, will the gentleman yield?

Mr. SWEENEY. I yield to the gentleman from Texas.

Mr. BRADY of Texas. Mr. Chairman, based upon the gentleman's comments, the hard work that the gentleman has done, and I know that this is a key issue and I appreciate the gentleman from New York (Mr. WEINER) and the gentleman from New York (Mr. FOSSELLA) and others who are involved in this, and I also appreciate the strong leadership of our chairman, the gentleman from Kentucky (Mr. ROGERS); and based upon this discussion today, based upon the hard work, because we all try to raise the level of funding for our communities, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III—EMERGENCY PREPAREDNESS AND RESPONSE

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations of the Emergency Preparedness and Response Directorate, $168,589,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404–405), Reorganization Plan No. 3 of 1978, and the Homeland Security Act of 2002; of which not to exceed $3,000 shall be for official reception and representation expenses.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities of the Emergency Preparedness and Response Directorate, $363,339,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404–405), Reorganization Plan No. 3 of 1978, and the Homeland Security Act of 2002; of which $25,000,000 shall be for emergency operations centers grants: *Provided,* That the aggregate charges assessed during fiscal year 2004, as authorized by Public Law 106–377, shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided further,* That the methodology for assessment and collection of fees shall be fair and equitable, and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further,* That fees received pursuant to this section shall be deposited in this account as offsetting collections, shall become available for authorized purposes on October 1, 2004, and shall remain available until expended.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $484,000,000, including $400,000,000, to remain available until expended, for the Strategic National Stockpile.

BIODEFENSE COUNTERMEASURES

For necessary expenses for securing medical countermeasures against biological terror attacks, $5,593,000,000, to remain available until September 30, 2013: *Provided,* That not to exceed $3,418,000,000 may be obligated during fiscal years 2004 through 2008, of which not to exceed $890,000,000 may be obligated during fiscal year 2004.

GRANT PROGRAMS

For activities designed to reduce the risk of flood damage to structures pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), notwithstanding sections 1366(b)(3) (B)–(C) and 1366(f) of such Act, and for a pre-disaster mitigation grant program pursuant to title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $200,000,000, to remain available until expended, of which $20,000,000 shall be derived from the National Flood Insurance Fund, and shall remain available until September 30, 2005: *Provided,* That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such title II (42 U.S.C. 5133(g)): *Provided further,* That notwithstanding section 203(f) of such title II (42 U.S.C. 5133(f)), grant awards shall be made without reference to State allocations, quotas, or other formula-based allocation of funds.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of Public Law 100–77 (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: *Provided,* That total administrative costs shall not exceed 3½ percent of the total appropriation.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to, first of all, before I enter into a colloquy with the distinguished chairman, thank the chairman of the subcommittee. Even before it was created, the leaders on this subcommittee were instrumental in helping our first responders.

There has been a lot of rhetoric about this Congress not doing enough for the first responders. Let me say to my colleagues in this body that before 9–11 occurred there was no program to assist our first responders nationwide, nothing. And Congress has, over the past years, had plenty of opportunities, but never saw fit. And disasters were not new. We had them all during the history of this country.

It was this Congress in 2000, with the leadership of the distinguished chairman of the full committee and the distinguished chairman of this subcommittee, who saw fit to create a grant program for our 32,000 fire and EMS departments in America. That was created in 2000, the year before 9–11. Initially, it was funded at $100 million. It went to $300 million, and this year, because of the leadership of the distinguished chairman from Kentucky and the support of the ranking member, the support for our firefighter grant program is at $715 million.

Many of our colleagues have said it is the most popular and most successful program that Congress has created. We are doing good work on behalf of the Nation's first responders. I want to applaud this subcommittee for their outstanding efforts and let them know, as the founder and chairman of the Fire Caucus and a former fire chief myself, they have done outstanding work; and it is paying dividends all over the country.

So, Mr. Chairman and Mr. Ranking Member, thank you for your strong support of the Nation's first responders.

Mr. Chairman, I rise today to engage in a colloquy with my colleague, the gentleman from Kentucky (Mr. ROGERS), the distinguished chairman of this subcommittee, regarding a very important program called FIRESAT.

Mr. Chairman, one need not look further than the news reports of the destructive and violent wildfires in Arizona. In 2000, over 8 million acres of pristine wilderness burned, and Federal agencies expended more than $1.3 billion in fire suppression costs. Last year, in 2002, wildfires scorched over 7 million acres. Hundreds of homes were destroyed and firefighters gave their lives.

FIRESAT is a satellite system that is able to detect wildfires in their early stages while they are still less than 1 acre in size. While the tools are at our disposal to save lives and billions of dollars, the equipment for this program remains boxed in offices in Reston, Virginia. This project can be fully activated with the necessary security upgrades and software upgrades in time for the fire season this year for $7.5 million. In relation to the billions of dollars lost in these wild land fires every year, this is truly a smart investment. Finally, Mr. Chairman, we have the technology and the means to do something about this.

FIRESAT was originally labeled the Hazard Support System and developed by Ratheon with funds which I obtained from the Department of Defense in 1997. The system was subsequently transferred to the U.S. Geological Survey and NOAA who, for unknown reasons, did not request funds for the program in their budget. At the request last year of Joe Albaugh, the director of FEMA, we successfully transferred the system, now named FIRESAT, within the Homeland Security Act to the Department of Homeland Security's Directorate for Emergency Preparedness and Response.

Today is our opportunity to install a commonsense solution to the annual wildfires that wreck havoc to communities and forests all over America and place countless firefighters in danger. I hope that under the leadership of the gentleman from Kentucky (Mr. ROGERS) an opportunity will present itself to fund this economical and much-needed program.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for yielding.

Let me return the thanks. The gentleman from Pennsylvania has been our leader in the Congress for first responders, not just firefighters, but first responders in general; and he brings an expertise to this job not just from an educational point of view, but he is back there with them. So I want to thank the gentleman for his leadership on these issues and for bringing this very timely subject to our attention.

Considering the devastation that wildfires cause to our Nation each year, I look forward to working with the gentleman during conference so that we can address this important matter.

Mr. BELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the House is set to pass a Homeland Security appropriations bill that falls well short of where our country needs to be to effectively combat our greatest vulnerability: the threat to our Nation's port facilities.

Today, in the Democratic Caucus Task Force on Homeland Security, we had the opportunity to hear from Rand Beers, who recently resigned from President Bush's National Security Council because he said that ''the administration wasn't matching its deeds to its words in the war on terrorism. They are making us less secure, not more secure.''

He told us that our Nation's port facilities are crying out for protection and that the administration's neglect of the issue was a cause of great concern and puzzlement for him.

The Coast Guard says that the cost of infrastructure improvements to secure our ports for fiscal year 2004 would run around $963 million. This bill only appropriates $100 million. Welcome funding, yes, but far short of where we need to be.

The Coast Guard also says that it will need $70 million to evaluate the security plans for ports across America by the July 2004 deadline mandated by the Maritime Transportation and Security Act. This bill does not provide any of the $70 million the Coast Guard says it needs.

The Obey amendment would address these and many others needs, yet we cannot consider the Obey amendment here today.

Why is it that we continue to neglect port security funding when the CIA tells us we are more likely to be attacked by a weapon of mass destruction smuggled aboard a ship than we are by an intercontinental ballistic missile? The fact that our ports are threatened might come as a surprise to millions of Americans who watched as Secretary Ridge announced that the Department of Homeland Security was releasing millions of dollars in port security grants.

□ 1715

But it does not come as a surprise to those of us in Congress who listened as administration officials told us that those scant few dollars appropriated for port security grant programs and Operation Safe Commerce would probably be rerouted to aviation security.

Mr. Chairman, in light of recent world events, this is simply unacceptable. We are not giving port security the funding it needs just weeks after an Egyptian sailor attempted to smuggle anthrax aboard a ship bound for North America. We are not giving port security the funding it needs the day after 600 tons of explosives were discovered aboard a ship bound for a fictitious company in Sudan. And we are not funding port security the same day my hometown paper, the Houston Chronicle, says that al Qaeda might be targeting oil and port facilities in Houston during the Fourth of July holiday.

We cannot afford to ignore the Obey amendment. Like Rand Beers said, ''America's ports are crying out for protection.''

Mr. Chairman, it is about time we start listening.

The CHAIRMAN. Are there further amendments?

If not, the Clerk will read.

The Clerk read as follows:

FIREFIGHTER ASSISTANCE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $750,000,000 to remain available through September 30, 2005: *Provided*, That up to 5 percent of this amount shall be transferred to

''Preparedness, Mitigation, Response, and Recovery'' for program administration.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,800,000,000 and, notwithstanding 42 U.S.C. 5203, to remain available until expended, of which not to exceed $22,000,000 may be transferred to the Office of Inspector General for audits and investigations.

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968, $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act; to remain available until expended.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, not to exceed $32,761,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $77,809,000 for flood mitigation, to remain available until September 30, 2005, including up to $20,000,000 for expenses under section 1366 of such Act of 1968, which amount shall be available for transfer to Grant Programs until September 30, 2005, and which amounts shall be derived from offsetting collections assessed and collected pursuant to 42 U.S.C. 4014, and shall be retained and used for necessary expenses under this heading: *Provided,* That no funds, in excess of $55,000,000 for operating expenses; $565,897,000 for agents' commissions and taxes; and $40,000,000 for interest on Treasury borrowings, shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For direct loans, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000: *Provided further,* That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses to carry out the direct loan program, $558,000.

TITLE IV—OTHER DEPARTMENTAL ACTIVITIES

CITIZENSHIP AND IMMIGRATION SERVICES

OPERATING EXPENSES

For necessary expenses for citizenship and immigration services, including international services, $248,500,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note); and recreation and welfare; $4,703,530,000, of which $1,300,000,000 shall be for defense-related activities; of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund; and of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided,* That none of the funds appropriated in this or any other Act shall be available for pay of administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $17,000,000, to remain available until expended.

RESERVE TRAINING

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $94,051,000.

ACQUISITIONS, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $805,000,000, of which $23,500,000 shall be derived from the Oil Spill Liability Trust Fund; of which $66,500,000 shall be available until September 30, 2008 to acquire, repair, renovate, or improve vessels, small boats, and related equipment; $138,500,000 shall be available until September 30, 2006 for other equipment; $70,000,000 shall be available until September 30, 2005 for personnel compensation and benefits and related costs; and $530,000,000 shall be available until September 30, 2008 for the Integrated Deepwater Systems program: *Provided,* That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2006 only for Rescue 21 (the National Distress and Response System Modernization program): *Provided further,* That upon initial submission to the Congress of the fiscal year 2005 President's budget, the Secretary of Homeland Security shall transmit to the Congress a comprehensive capital investment plan for the United States Coast Guard that includes funding for each budget line item for fiscal years 2005 through 2009, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $19,500,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $22,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $1,020,000,000.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

OPERATING EXPENSES

For necessary expenses of the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security as authorized by law, $776,000,000, to remain available until September 30, 2005.

SCIENCE AND TECHNOLOGY

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses of activities of the Department of Homeland Security in carrying out the purposes of title III of the Homeland Security Act of 2002 (Public Law 107–296), for basic and applied research, development, test and evaluation, construction, procurement, production, modification and modernization of systems, subsystems, spare parts, accessories, training devices, operation of the Science and Technology Directorate and its organizations and activities, including the Homeland Security Advanced Research Projects Agency, for cooperative programs with States and local governments to enable the detection, destruction, disposal, or mitigation of the effects of weapons of mass destruction and other terrorist weapons, and for the construction, maintenance, rehabilitation, lease, and operation of buildings and other facilities, and equipment, necessary for the activities of the Directorate, $900,360,000, to remain available until September 30, 2006.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, $1,148,700,000, including purchase of American-made side-car compatible motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitation on such expenditures in this or any other Act; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $25,000 for official reception and representation expenses; not to exceed $100,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase limitation for the current fiscal year: *Provided,* That $1,633,000 shall be available for forensic and related support of investigations of missing and exploited children: *Provided further,* That $4,783,000 shall be available as a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided further,* That up to $18,000,000 for protective travel shall remain

available until September 30, 2005: *Provided further,* That subject to the reimbursement of actual costs to this account, funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers, training Federal law enforcement officers, training State and local government law enforcement officers on a space-available basis, and training private sector security officials on a space-available basis: *Provided further,* That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year: *Provided further,* That the James J. Rowley Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

Mr. LATHAM (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 37, line 13 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The text of the bill from page 31, line 6, through page 37, line 13, is as follows:

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, $3,579,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

(INCLUDING TRANSFER OF FUNDS)

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; or (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose, unless both Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2004, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities, as approved by the Congress; unless the Committees on Appropriations are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security in this Act or provided in previous appropriation Acts may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds and shall not be available for obligation unless the Committees on Appropriations are notified 15 days in advance of such transfer.

SEC. 504. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2004 from appropriations made available for salaries and expenses for fiscal year 2004 in this Act, shall remain available through September 30, 2005, for each such account for the purposes authorized: *Provided,* That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further,* That these requests shall be made in compliance with reprogramming guidelines.

SEC. 505. Except as otherwise provided in this Act, funds may be used for hire and purchase of motor vehicles as authorized by section 1343 of title 31, United States Code: *Provided,* That purchase for police-type use of passenger vehicles may be made without regard to the general purchase price limitation for the current fiscal year.

SEC. 506. The Federal Emergency Management Agency ''Working Capital Fund'' shall be available to the Department of Homeland Security, as authorized by sections 503 and 1517 of the Homeland Security Act of 2002, for expenses and equipment necessary for maintenance and operations of such administrative services as the Secretary of Homeland Security determines may be performed more advantageously as central services. Such fund shall hereafter be known as the ''Department of Homeland Security Working Capital Fund''.

SEC. 507. The Federal Emergency Management Agency ''Bequests and Gifts'' account shall be available to the Department of Homeland Security, as authorized by sections 503 and 1517 of the Homeland Security Act of 2002, for the Secretary of Homeland Security to accept, hold, administer, and utilize gifts and bequests, including property, to facilitate the work of the Department of Homeland Security: *Provided,* That such fund shall hereafter be known as ''Department of Homeland Security, Gifts and Donations'': *Provided further,* That any gift or bequest shall be used in accordance with the terms of that gift or bequest to the greatest extent practicable.

SEC. 508. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2004 until the enactment of the Intelligence Authorization Act for fiscal year 2004.

SEC. 509. The Federal Law Enforcement Training Center is directed to establish an accrediting body that will include representatives from the Federal law enforcement community, as well as non-Federal accreditation experts involved in law enforcement training. The purpose of this body will be to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 510. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than 5 miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 511. None of the funds in this Act may be used to make a grant unless the Secretary of Homeland Security notifies the Committees on Appropriations not less than 3 full business days before any grant allocation, discretionary grant award, or letter of intent totaling $1,000,000 or more is announced by the department or its directorates from (1) any discretionary or formula-based grant program of the Office of Domestic Preparedness; (2) any letter of intent from the Transportation Security Administration; or (3) any port security grant: *Provided,* That no notification shall involve funds that are not available for obligation.

SEC. 512. Notwithstanding any other provision of law, no agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 513. The Federal Law Enforcement Training Center is directed to ensure that all of the training centers under its control are operated at their highest potential capacity efficiency throughout the fiscal year. In order to facilitate this direction, the Director is authorized to schedule basic and advanced law enforcement training at any site the Federal Law Enforcement Training Center determines is warranted in the interests of the Government to ensure the best utilization of the Center's total capacity for training, notwithstanding legislative prohibitions.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 514. Section 114 of title 49, United States Code, is amended by adding at the end the following:

''(t) FEE AUTHORITY FOR TRANSPORTATION CREDENTIALS.—

''(1) Subject to the provisions of this subsection, the Secretary of Homeland Security may impose reasonable fees and charges on an individual or an individual's employer, where such an individual requires a credential or background records check under Federal law for an activity in the field of transportation, to cover the costs of providing the credential or performing the backgrounds records check, including—

''(A) conducting or obtaining a criminal history records check and a review of available law enforcement databases and records

of other governmental and international agencies;

''(B) review and adjudication of requests for waiver and appeals of agency decisions with respect to providing the credential, performing the background records check, and denials of requests for waiver and appeals; and

''(C) any other costs of the Transportation Security Administration related to providing the credential or performing the backgrounds records check.

''(2) The Secretary shall ensure that the fees are reasonably related to the costs of the Transportation Security Administration for providing services rendered. The amount of costs imposed under this subsection shall be determined by the Secretary and shall not be subject to judicial review.

''(3) Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Secretary may impose a fee under this subsection through the publication of notice in the Federal Register.

''(4) Notwithstanding section 3302 of title 31, any fee collected under this section—

''(A) shall be credited as an offsetting collection to the account in the Treasury from which the expenses were incurred and are available to the Secretary for these expenses; and

''(B) shall remain available until expended.''.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I make a point of order against section 514.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I raise a point of order against section 514 on page 37, line 14 through page 39, line 10. This particular section violates clause 2 of rule XXI. It changes existing law and therefore constitutes legislating on an appropriations bill in violation of the House rules.

The CHAIRMAN. Are there other Members desiring to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that section 514 proposes directly to change existing law, to wit: section 114 of title 49, United States Code, and as such it constitutes legislation in violation of clause 2(b) of rule 21, and the point of order is sustained. Section 514 is stricken from the bill.

The Clerk will read.

The Clerk read as follows:

SEC. 515. None of the funds made available by this Act may be used for the production of customs declarations that do not inquire whether the passenger has been in the proximity of livestock.

SEC. 516. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a determination, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 517. None of the funds made available in this Act may be used to allow—

(1) the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined pursuant to section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); or

(2) the release into the United States of any good, ware, article, or merchandise on which there is in effect a detention order, pursuant to such section 307, on the basis that the good, ware, article, or merchandise may have been mined, produced, or manufactured by forced or indentured child labor.

SEC. 518. Appropriations to the Department of Homeland Security in this Act shall be available for purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by section 3109 of title 5, United States Code.

SEC. 519. None of the funds appropriated in this Act may be used for expenses of any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 520. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Transportation Security Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to aviation security: *Provided*, That the prohibition of funds in this section does not apply to—

(1) negotiations between the agency and airport sponsors to achieve agreement on ''below-market'' rates for these items, or

(2) space for necessary security checkpoints.

SEC. 521. Section 835 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 395) is amended—

(1) in subsection (a), by inserting before the period '', or any subsidiary of such an entity'';

(2) in subsection (b)(1), by inserting ''before, on, or'' after the ''completes'';

(3) in subsection (e)(1)(B), by striking ''which is after the date of enactment of this Act and''; and

(4) in subsection (d) by striking all after ''in the interest of'' and inserting ''national security.''.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I raise a point of order against section 521 on page 41, line 15 through line 25, of H.R. 2555 on the grounds that this provision changes existing law in violation of clause 2(b) of the House rule 21 and therefore is legislation included in a general appropriations bill.

The CHAIRMAN. Do further Members desire to be heard on the point of order?

The gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The gentlewoman from Connecticut may proceed.

Ms. DELAURO. Mr. Chairman, I want to express my serious opposition to this point of order and point out the hypocrisy of what my friends on the other side of the aisle are doing here.

I offered this amendment during the Committee on Appropriations consideration of this bill. It was accepted by the chairman and it was passed on a voice vote. Yet, today they use a technical excuse to justify stripping it from the bill. Just another gimmick.

This amendment would do nothing more than restore the law to the form it held when 318 Members of this House voted for a motion to recommit that I offered to prohibit the Department of Homeland Security from contracting with corporate expatriates on July 26, 2002. But before that bill became law, loopholes were added that exempted most of the expatriate companies from the provision.

Expatriate companies are those that go offshore solely for the purposes of not paying taxes in the United States. At the time the majority leadership said publicly that those loopholes would be closed. Last November 19 the former leader of the other body told reporters that he had received a commitment from the Speaker and the majority leader that this would be fixed. Unfortunately, we have yet to do that.

We have an obligation to address this issue. American companies, particularly those contracting with our government, ought to be paying American taxes just like every citizen and corporation in this country. By this action, the Republican majority is demonstrating that they do not hold those same values. Since the majority leadership has failed to act, I offered an amendment in the Committee on Appropriations to close those loopholes added to the law last summer. Let me stress again that this amendment was accepted by the chairman of the subcommittee and passed on a voice vote.

The amendment would simply prohibit Federal agencies from contracting with a domestic subsidiary of any company that has moved overseas. This will prevent corporations from setting up a shell company overseas but then continue to exploit the tax loophole by obtaining government contracts here at home.

One high ranking Republican member of the Committee on Ways and Means said about closing this loophole that ''business does not like that.''

Is that how we decide how to solve our problem? This amendment would further make the contract ban retroactive so it applies to existing corporate expatriates.

Finally, the amendment includes a waiver solely for the purposes of national security, which is what was included in the original ban passed on the floor. That waiver was unnecessarily expanded last year for all intents and purposes, making the entire provision meaningless.

Evidence shows that corporate expatriates cost our government about $4 billion in revenue, funds that we sorely need. Yet they continue to receive $2.7 billion in government contracts after they have abdicated their most basic responsibility as citizens. We should not reward these companies with contracts from the very department that

is charged with safeguarding our homeland security.

We should not use procedural sleight of hands to disguise the fact that some in this body want to condone that very practice. I am not calling for a vote at this time, but I would hope that the House leadership will seriously revisit this issue. It is wrong. It is un-American, and it is a travesty to think about these companies who refuse to pay taxes to this country and yet want to be the beneficiaries of the dollars and the contracts in order to deal with homeland security. Let us live up to the commitment that 318 of us made last year.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order?

Mr. MICA. Mr. Chairman, the DeLauro amendment adopted by the Committee on Appropriations as part of the Homeland Security Appropriations Bill is in fact a significant change in the procurement policy of the United States, a subject clearly within the jurisdiction of the Committee on Government Reform under House Rule 10.

The DeLauro amendment calls for a broad sweeping contracting ban for so-called inverted domestic corporations and is clearly a change in existing law. As such, this section is in clear violation of clause 2(b) of House Rule 21, providing that no provision changing existing law shall be reported in any general appropriations bill.

The CHAIRMAN. Are there Members wishing to be heard on the point of order?

The Chair is prepared to rule and will so rule.

The Chair finds that section 521 proposes directly to change existing law, to wit: section 835 of the Homeland Security Act of 2002, and as such it constitutes legislation in violation of clause 2(b) of rule 21, and the point of order is sustained. Section 521 is stricken from the bill.

Mr. NEAL of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for the better part of 2 years now we have been promised a vote on closing the Bermuda loophole, an effort to amend this process on the floor where the Republican leadership has accepted by a margin so lopsided that it rivals any vote that we will take in any given legislative year. I believe 318 members of this House voted to do something about these corporate expatriates who not only leave the United States to avoid paying taxes but then have the unmitigated gall to bid on defense work in homeland security legislation. Ingersoll Rand, TYCO, these companies are avoiding billions of dollars in taxes, joint taxes estimated that we would garner, an additional $5 billion if we would simply close the Bermuda tax loophole.

Now, I know what the talking points of the Republican Party are on this. It is the corporate tax structure that is at fault. Well, if that is the case after 9 years why have not we done something about it? It is unbelievable where we had a chairman of the Committee on Ways and Means who used to say he was going to pull the Tax Code up by its roots. Well, America tonight knows that that tax system is more complicated and more unfair than ever.

We were going to drive a stake through the heart of the Tax Code. We were going to have tax simplicity. You know what we have had? We have had the rewarding of rich friends by our failure to address this issue.

For the Americans that are viewing this evening, I would ask you what would happen if you moved to Bermuda and declared that by renting a post office box you had taken citizenship on that island nation.

□ 1730

The IRS would be after you the next day. There would be no avenue of retreat, no opportunity to do what these corporations are doing. We have got 150,000 troops in Iraq tonight; and we talk about patriotism, while these guys renounce their citizenship and everybody knows that they continue to do substantial business and have their real corporate addresses here in the United States? And yet we cannot get a vote in this House of Representatives on that matter.

Two years ago, David Rogers in the Wall Street Journal was promised by the leadership of this House ''there would have to be a vote on the Bermuda tax loophole.'' We are no closer to doing that this evening than we were 2 years ago; and that argument, again it galls everybody. It is the corporate tax structure that is at fault, not these folks moving offshore to avoid their responsibilities to live in this great Nation. That is patriotic, to pay our taxes and the $82 billion that Iraq is costing and $42 billion for homeland security.

We define patriotism by allowing these guys to move their corporate address to Bermuda for one exclusive purpose, to avoid taxes. What does that say about this great Nation and our principles? Yet the intransigence of the leadership on the majority side month after month after month is to do nothing about it. Put that question on the floor here about whether or not these folks should pay their taxes and I tell my colleagues what we would get, 350 votes for it and everybody knows it.

Mr. HAYES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today with my friend, the gentleman from Tennessee (Mr. WAMP), in support of providing domestic sourcing preferences for the Department of Homeland Security. As we take steps to protect our homeland security, an integral part of the process is strengthening our national and economic security. Through applying provisions that support the American industrial defense base to the Department of Homeland Security we can help ensure that American companies are able to provide the crucial goods needed by the agency to promote homeland security.

The American taxpayer provides the dollars which Congress then appropriates. It is only right that those same dollars are reinvested back into our economy. These dollars are reinvested back into our companies and workers and not those of a foreign country who could be an opponent or, at worst, a non-ally.

It is wise to provide for the livelihood of American citizens while funding government agencies. Homeland security starts at home, just as the name implies, in the homes and paychecks of American families. One of the most frequent questions I am asked by constituents is how they can sell their products or goods to the U.S. Government.

Today we have the ability to ensure that U.S. companies will be able to pursue and win contracts with the Federal Government. We have the opportunity to safeguard our economic security and keep America strong while providing necessary funds for America's homeland security.

My top two priorities are economic security and national security. Strengthening our homeland security is something that we are all working hard to do. There is no reason that the Department of Homeland Security should not do everything they can within reason to buy American goods.

A few years back we had an unfortunate episode where the U.S. Army purchased over 1 million black berets for U.S. soldiers. The problem was that a majority of those berets were made in China, and I think we all can agree that is ridiculous.

We need to take steps to ensure that government agencies not only improve our homeland security, but we have also got to take advantage of every opportunity we can to strengthen and promote jobs here at home.

I urge adoption of this crucial provision and would like to thank the gentleman from Kentucky (Mr. ROGERS) and his staff for working with me to provide American companies every opportunity to contract with the Department of Homeland Security and keep America strong.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I move to strike the last word.

Mr. Chairman, it is obvious that the ranking member of the full committee and the chairman of the full committee, as well as the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO), respectively the chairman and ranking member of the Subcommittee on Homeland Security, are making every effort to work as diligently as they can on addressing the question of homeland security.

Mr. Chairman, I think it is important to address the question of neighborhood security, and I believe that in the

course of the debate on the floor of the House many Members have come to debate questions and offer amendments not to be frivolous, but to ensure that our duty and responsibility to the American people are carried out.

I rise in support of an amendment, recognizing that the offerers have withdrawn it, but I rise to explain to my colleagues the importance of the concept offered by the gentleman from Texas (Mr. BRADY) and the gentleman from New York (Mr. WEINER). I came back from field hearings not in my district but in Long Beach, California, and Los Angeles, California; and I think it is important to note that there is no attempt here to diminish anyone's need for security in any part of the country. In fact, I am a very strong advocate for focusing on urban and rural areas because no one ever knows where a terrorist will attack, but I think this concept of delivering moneys only on the basis of population and not having a formula that responds to the high-targeted areas, let me share with my colleagues from the Houston Chronicle a comment noted that, with Texas as the target, officials are especially concerned about oil or gas facilities and pipelines because al Qaeda terrorists in the past have talked about attacking the energy sector as a way of damaging America's economy, officials said.

Mr. Chairman, even on 9–11 as we were trying to find out what was happening, rumors abounded that Houston was one of the cities because of its oil interests and its oil facilities that might be on the list of the terrorists that were now in the United States and tragically and horribly had struck the World Towers. It is important to recognize reality, and this idea of the formula is to make sense out of a simple process that gives moneys on the basis of population.

I believe, for example, we would take one State that might get $33 a person because of its population that is less than the State of Texas with its high density and its problems with oil refineries and other oil interests, and they would only get $3 or $4 a person. I know as we visited Long Beach and Los Angeles, and I use them only as an example, that the issue that was being made by those first responders was the need for resources in their hands.

Another point that was made was the need for resources to utilize the personnel, Mr. Chairman, not just for equipment, and this is one of the things that I believe we should openly discuss, that the formula that is presently utilized gives money only for equipment to our first responders. They need money for personnel. One can have the highest degree of equipment; but if they do not have personnel in the law enforcement, police departments, if they do not have personnel in the fire department, specifically the hazardous materials unit, that usually four people or five people or six people, it is key, Mr. Chairman, that we look at this not from the position of indictment, that we are accusatory or that we are not in sync with the mission that we are going forward on, but at the same time we should look for it in improvement.

Let me share with my colleagues the words of Secretary Ridge and paraphrase him, that generally speaking, the way that we have been distributing funds of old does not help the present situation. The very fact that each State should get the same amount of money does not help us fight terrorism. Some States should get more money than others because they have been elevated to a higher risk of terrorism.

So the reason why I believe it was worthy to have the debate that provided us the opportunity to discuss a different formula change is because, Mr. Chairman, it is crucial that this body does the right thing in securing the American people, and changing the formula would help us do the right thing. Getting the moneys in the hands of those first responders and others helps us do the right thing; and I would hope as our colleagues see this bill move forward, giving us more money, as the gentleman from Wisconsin (Mr. OBEY) has suggested that we do, in the right and fair way would help do the right thing.

I ask my colleagues to consider these elements as we move forward.

The CHAIRMAN pro tempore (Mr. MCHUGH). The Clerk will read.

The Clerk read as follows:

SEC. 522. (a) None of the funds provided in this or previous appropriation Acts may be obligated for testing (other than simulations), deployment, or implementation of CAPPS2, the Computer Assisted Passenger Pre-screening System that the Transportation Security Administration (''TSA'') plans to utilize to screen aviation passengers, until the General Accounting Office has reported to the Committees on Appropriations that—

(1) a system of due process exists whereby aviation passengers determined to pose a threat and either delayed or prohibited from boarding their scheduled flights by the TSA may appeal such decision and correct incorrect information contained in CAPPS2;

(2) the underlying error rate of the government and private data bases that will be used both to establish identity and assign a risk level to a passenger will not produce a large number of false positives that will result in a significant number of passengers being treated mistakenly or security resources being diverted;

(3) the TSA has stress-tested and demonstrated the efficacy and accuracy of all search tools in CAPPS2 and has demonstrated that CAPPS2 can make an accurate predictive assessment of those passengers who would constitute a threat to aviation;

(4) the Secretary of Homeland Security has established an internal oversight board to oversee and monitor the manner in which CAPPS2 is being developed and prepared;

(5) the TSA has built in sufficient operational safeguards to reduce the opportunities for abuse;

(6) substantial security measures are in place to protect CAPPS2 from unauthorized access by hackers or other intruders;

(7) the TSA has adopted policies establishing effective oversight of the use and operation of the system; and

(8) there are no specific privacy concerns with the technological architecture of the system.

(b) Not later than December 31, 2003, the National Academy of Sciences shall submit a report to the Committees on Appropriations that assesses the likely impact of the CAPPS2 system on privacy and civil liberties and includes recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effect of such system on privacy, discrimination, and other civil liberties.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I have a point of order against section 522.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I raise a point of order against section 522 on page 42, line 1, through page 43, line 24. This section violates clause 2 of rule XXI. It, in fact, changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of the House rules.

Furthermore, Mr. Chairman, I have assured the sponsor of this original provision, the gentleman from Minnesota (Mr. SABO), that the House Committee on Transportation and Infrastructure will be adding a similar provision to our aviation security bill, H.R. 2144, during full committee markup tomorrow, Wednesday, and we will have similar language, and we do have the authority to authorize this language.

Unfortunately, his language is authorizing on an appropriations measure; and therefore I raise that point of order.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

Mr. SABO. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Minnesota is recognized.

Mr. SABO. It is sort of strange. Would the gentleman from Florida yield?

Mr. MICA. Mr. Chairman, I would be glad to yield.

Mr. SABO. In discussion of his point of order, we are trying to figure out how——

The CHAIRMAN pro tempore. The Chair notes to the gentleman from Minnesota that under the rules of the House, debate on a point of order must be directed to the Chair, who hears each Member separately.

Mr. SABO. Okay. Let me see if I figure out how we do this, Mr. Chairman.

The CHAIRMAN pro tempore. I would note, just to help the gentleman with his dilemma, that others may be heard on it on their own time.

Mr. SABO. Mr. Chairman, I think I understand what the gentleman from Florida is saying is that he is raising a point of order against this provision because it is legislation on an appropriation bill. However, he is also telling me that the authorizing committee is meeting tomorrow and it is their intent to adopt provisions that are similar in substance to what is contained in

the language of the appropriations bill, which will then be amended in another bill.

The gentleman from Minnesota would observe that, as he has read what is intended to be offered tomorrow, that in many ways it is similar and if that bill were before us we would not be subject to a point of order. However, the gentleman from Minnesota has also observed that some of the enforcement techniques within the proposed language are significantly weaker.

I would observe that the proposal that the committee will be considering tomorrow leaves the responsibility for reviewing CAPPS2 proposal internally in the Department while the language in question, which is subject to a point of order now, gives that responsibility to the GAO; and I would hope the gentleman from Florida would consider such language because frankly one of my concerns is the Department may not be equipped to make a good judgment.

We, frankly, have watched an agency that has had a problem trying to figure out which of their own employees do or do not have criminal backgrounds, and we think it might be a significant advantage to have the GAO look at their proposed plans before they are implemented rather than waiting until a year after deployment and development of these plans to have a GAO study.

□ 1745

So I would urge the gentleman from Florida, as he ponders whether he should continue to press this point of order, that they might well consider expanding at an earlier stage the review of GAO of the pending plans of the agency.

The CHAIRMAN pro tempore (Mr. MCHUGH). Does any other Member wish to be heard?

Mr. MICA. Mr. Chairman, again, I think that the point of order that I raised clearly does demonstrate, in fact if we look at the language before us, that there is authorization language contained by the gentleman from Minnesota (Mr. SABO), which is excellent language and directive language but it does authorize on an appropriations measure, which is not allowed under the rules of the House.

The gentleman has raised issues about the substance of what is proposed in the full committee markup, and we will address some of those, but we do have a provision and we clearly have under our charter the responsibility for legislating the procedure which is followed. We will have the Under Secretary directed to not implement, other than on a test basis, the CAPPS2 program until the Under Secretary provides to Congress a certification that certain steps are taken. And later on we will have, of course, a GAO review required under our measure.

So we have the authority to the point of order clearly under the charter within the Committee on Transportation and Infrastructure. This is going to be considered under the FAA AIR–21 reauthorization. The security measure which is being considered, H.R. 2144, will be marked up tomorrow and blended into legislation which has already passed the House and, again, clearly under our authority as authorizers.

The CHAIRMAN pro tempore. If no other Member wishes to be heard on the point of order, the Chair is prepared to rule.

The Chair finds that section 522 proposes explicitly to supersede existing law, most immediately by proposing to restrict funds that were appropriated in other acts. As such, it constitutes legislation in violation of clause 2(b) of rule XXI, and the point of order is sustained. Section 522 is stricken from the bill.

AMENDMENT OFFERED BY MR. HAYES

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

The Clerk read as follows:

Amendment offered by Mr. HAYES:

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 in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a–10c).

Mr. HAYES. Mr. Chairman, I have spoken as to my support for this amendment, and if he so desires I would yield to my friend and cosponsor, the gentleman from Tennessee (Mr. WAMP).

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

Mr. HAYES. I yield to the gentleman from Tennessee.

Mr. WAMP. Mr. Chairman, I thank the gentleman for yielding to me, and I certainly appreciate the privilege of having my name associated with anything that the gentleman from North Carolina (Mr. HAYES) does here.

The Buy American provisions that we have talked about a lot in the past on this floor are very germane to this debate. I appreciate the fact that we can offer this amendment, hopefully without anyone raising a point of order against it, because it is essential that in this appropriations bill, as we prioritize the homeland security needs of the future, that we put all the language we can in the bill to encourage United States business and enterprise to produce and provide the goods and services that we need to secure our homeland.

Let me give an example, one very large example. In this bill we actually fund into the future a program called BioShield, where the administration leads and we scrub and fund and hold the hearings on an effort to provide the stockpiles for vaccines and immunizations in the event that we are attacked. Companies all around the world make these products. But when we are talking about chelating agents that would actually provide relief and support to those people affected that we may stockpile in a dozen locations around the country in very large quantities, I want a United States manufacturer, if at all possible, to make those products, and I want those products stockpiled here in the United States, if at all possible.

That is all that this language says, is that wherever we can we buy American for these products and services. And on this BioShield initiative in this bill, it is $5.6 billion over the next 10 years, including a 2004 appropriation, the coming year appropriation of $890 million. That is a lot of money. It is a lot of procurement. It is very important that wherever we can we look to United States companies.

Mr. Chairman, there are countries around the world that have not been particularly supportive of us in recent years that have the advanced capabilities of providing these products and services and goods from time to time. And we do not want to respond in a punitive way whatsoever. If they have the products, and we need them, and we have good relations, that is great. But what we want to say is there are businesses and workers and interests in this country that support our country with their taxes. We want to support them wherever we possibly can.

That is the intent. That is the reality of this legislation. Many have come before us and attached Buy American amendments to a host of legislative matters, some big, some small, but I have to say, as we begin this new Department of Homeland Security, as we properly resource it, I cannot think of a more important issue that we attach Buy American provisions to than securing our homeland, to make sure that we actually control as much as possible what these products actually are, to make sure that they are what they say they are, and that we know what we are getting if an event happens once again.

So, Mr. Chairman, I applaud the author, he and I are going in the same direction, and we have teamed up on this amendment.

Mr. HAYES. Mr. Chairman, reclaiming my time, I thank the gentleman for his remarks, I thank the chairman, the gentleman from Kentucky (Mr. ROGERS), and I urge the support of others to keep America strong and to support our industrial defense base.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. HAYES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MARKEY

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

The Clerk read as follows:

Amendment offered by Mr. MARKEY:

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 approve, renew, or implement any aviation cargo security plan that permits the transporting of unscreened or uninspected cargo on passenger planes.

Mr. MARKEY. Mr. Chairman, I bring a very important subject to the attention of the Members of the House. Each

one of us, justifiably so, and every American, more than 100 million, who get onto planes in our country every year are now required to take their shoes off as they go through a process in an airport to ensure that no danger will befall the other passengers on that plane. Now, that is completely justifiable, and I think all Americans, well, almost all Americans, accept that now as part of the process of getting on any airplane in America since September 11.

We in Boston, at Logan Airport, know the consequences, because two of the planes that were hijacked came from Boston, came from Logan Airport, and came from within five miles of my home. So my amendment today deals with the reality that after everyone's shoes have been inspected, bags have gone through security, and this is what the Transportation Security Administration now requires, after the booties of babies are taken off and inspected, underneath, on the same plane, on the same day, with the same passengers on board, with their shoes now back on after having been screened underneath the cargo, the cargo has not been screened.

My amendment would require that the cargo that goes on the passenger planes that more than 100 million Americans each year fly is screened as well as the passengers themselves, as well as grandma, as well as the babies with their booties, because it is unfair to every American who gets on a plane to be put in danger that the cargo on that plane has not been screened.

Now, what do we mean by screening? We mean the same level of physical inspection of passenger plane cargo as is applied to passenger plane luggage and to the passengers themselves. What do we not mean? We do not mean the Known Shipper Program, which is the current excuse for allowing commercial cargo to be carried on passenger planes without physical screening. And which technology will we use? We will use the same technology that American air carriers use to screen cargo in international airports every single day of the week all day long. Who will do the screening? The same screeners who are now being laid off, 3,000 of them, 6,000 of them who are trained to do this job. We cannot allow this to go on any longer.

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

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

Mr. SHAYS. Mr. Chairman, may I ask how much time the gentleman has left?

The CHAIRMAN pro tempore. The gentleman has 1½ minutes remaining.

Mr. SHAYS. Mr. Chairman, I rise in strong support of this amendment, which will require the Transportation Security Administration, TSA, to develop a plan to screen or inspect all cargo that is carried on passenger planes.

To me, it blows me away that we would allow any freight to go in the belly of an aircraft that has not been inspected. And at the very least the public has the right to know that basically 20 percent of the cargo in the belly of an aircraft is totally unscreened. Its cargo is unscreened. We could have not one, not two, not three, but we could have a number of planes knocked out of the sky at any one time simply because we are not inspecting the freight cargo that is in the belly of an aircraft.

Mr. Chairman, with that, I will yield back to my colleague and thank him for his amendment. I cannot think of a stronger and more important amendment.

Mr. MARKEY. Mr. Chairman, reclaiming my time, I thank the gentleman and I urge support of the full House on as important an amendment as we are going to be called on to vote on this year in Congress.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition. TSA currently screens cargo based on the Known Shipper Program and identifies potentially troublesome cargo by additional screening. By law, they are required to ensure adequate cargo security measures, but not 100 percent screening of air cargo. In essence, this amendment would stop airlines from loading cargo onto passenger aircraft until TSA can screen or inspect each individual piece.

Now, in the bill, we already provide $50 million for the security of air cargo. This funding will do the following: It will develop an air cargo security program for domestic and foreign air cargo carriers. It will promote the development and implementation of a risk-based freight screening system that will identify pieces of cargo that require closer scrutiny and participation in the Known Shipper Program, including linkages with other databases to verify shipper information that is provided. We provide for development of state-of-the-art detection technologies that will screen cargo and also research and test devices that exist now and procedures to be applied to air cargo.

□ 1800

Right now, Mr. Chairman, it is not humanly possible to inspect every piece of cargo that goes onto the aircraft. TSA does not have the staff or technologies in place to do that. For example, airport screeners screen passengers and baggage using explosive detection and trace machines. These machines are not certified to screen cargo, nor can they handle the large pallets that cargo is typically shipped in. In these cases, the pallets would need to be broken apart and screened by hand. That is very time-consuming and labor intensive.

In addition, in many cases cargo is sorted and prepared onto pallets at airport warehouses nowhere near the airports; and to implement this amendment, the cargo would need to be screened at these off-site locations. According to an analysis prepared by Battelle just prior to 9–11, 100 percent screening of all cargo on passenger carriers would require at least $500 million in the first year alone. That includes procurement of equipment, installation, training, and staffing. It would require 7,800 employees, which would include 6,600 screeners and 1,100 supervisors. If we adopt this amendment, TSA would need to hire a substantial number of new staff to inspect cargo and install new technologies at all of these warehouses.

Even if there was sufficient funding in the bill, which there is not, it is not logistically possible to have all of these screeners and technologies in place by the beginning of the fiscal year. TSA is currently in compliance with the Transportation Security Act, which requires TSA to provide adequate security measures for air cargo. The law does not require every piece to be screened or inspected, as this amendment would. We do not require every piece of cargo that goes onto a ship be screened when it is loaded onto a ship or before it is off-loaded. Instead, DHS targets what cargo pieces need to be more closely inspected based on intelligence and innovations such as the advanced manifests that we now require.

By adopting this amendment, TSA would have to refuse to allow airlines to transport any cargo until all of it can be screened, and I would point out that the money-strapped airlines would be sorely tried trying to do this, and it would greatly impact their bottom line.

Currently, the only cargo airlines can ship on passenger planes is from a known shipper. They cannot, for example, ship any mail above 16 ounces because the shippers may not be known.

So, Mr. Chairman, I understand the obvious meaning of the amendment. I appreciate the concern the gentleman has. We have tried to address that in the bill with $50 million to begin to address the problem. To adopt this kind of a drop-dead provision would mean chaos in the airlines. It would not substantially increase the security that is now ongoing in loading cargo onto planes. The Known Shipper Program is reliable. It is working, and while we spend the $50 million this coming year to begin to try to get the machines and technology in place to be able to screen, as we do, container freight in most cases, this money should be sufficient for that purpose. So I would urge defeat of the amendment.

Mr. SCHIFF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak on the Markey amendment, and that issue is the glaring hole that remains in our airline security. It is a shocking realization for most Americans to learn that almost fully half of the cargo that is in the hold of an air passenger plane when they get on a plane to go on vacation or work travel, that almost half of that cargo is commercial cargo that is

never screened by anyone for explosives.

That is a massive failure in our airline security. Some months ago I introduced the Airline Cargo Security Act modeled after legislation by Senators FEINSTEIN and HUTCHISON which would require the TSA to adopt comprehensive measures to inspect airline cargo. It gives the TSA flexibility to use a variety of different methods to accomplish this, from new technologies to blast-proof containers, to a database of known shippers; but it requires that the job get done. The airline industry is hanging by a slender thread. Terrorists do not have to hijack our airplanes any more to wreak chaos on this industry and wreak devastation on this country and our economy. They just have to blow a plane out of the sky. Given the fact that so much of the cargo is not screened for anything, this is tragically too easy to accomplish. This has to change. This has to change.

It is hard to overstate the significance and the disparity of this security problem. All of us have had the experience of going through the airport now and having to take our belt and shoes off and remove the toenail clippers from our carry-on luggage, but imagine the fact that in the hold of that plane are huge containers which have not been inspected by anyone. And when we consider the security lapses in shipping that cargo, the opportunities when that freight is forwarded to include explosive or other dangerous materials in that cargo, it is extraordinary.

Indeed, I think most Americans would find it baffling that we go through these personally intrusive measures when we go to the airport, but our cargo goes through nothing. We cannot fight the last battle; we cannot simply predict that terrorists are going to use the same technique they used before. We have to be forward-thinking and recognize that there are wholesale gaps in what we are doing to protect the American people. I applaud my colleague for raising this issue in this legislation. I want to urge my colleagues both here today and in the future to address the issue of cargo security. Let us not wait for a tragedy to awaken us to this problem.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to note in the Obey amendment, which the House was not allowed to vote on today, we would have added $150 million for airline security, including an additional $50 million for this very project, doubling what the committee has in its bill.

The problem that we have is that the known-shipper system is simply a trust-the-luck system based on what we know about shippers and the people who work for them. Our concern is about what we do not know. We have just seen that TSA had a very difficult time in doing the background screening for criminal activity before they hired a number of people, and those people had to be let go. We really do not have any way of knowing what is happening within the businesses of the people who are shipping. It just seems to me that this amendment is eminently prudent and should be adopted.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me say, and I do not say this out of formality but because I believe it deeply, that the chairman of the subcommittee has crafted a good bill, and this is the first bill on homeland security, and I applaud the gentleman for his tremendous efforts and work; but he has given us an opportunity to discuss something which has troubled me deeply.

I chair the Subcommittee on National Security of the Committee on Government Reform. We learned clearly before September 11 of the terrorist threat. We knew it was a new threat, and we knew that we needed to develop a strategy to confront it and to reorganize our government; and we are in that process. But what blew me away when we debated the Aviation Security Act was the fact that I had always thought that we screened all of the luggage put in the belly of the airplane by passengers.

We put an amendment on the bill in 2001 that said by the end of 2003 we would have to search all baggage. We finally got it included in the bill, even though the Inslee amendment was not made in order. It was put in as a manager's amendment, but people said we could not do it by the end of 2003. Then when the bill came back from the Senate and we had our conference bill, it said by the end of 2002.

I thought, ''If we could not do it then by 2003, how can we do it by the end of 2002?'' And what I was told was that we really do not want people to know that we cannot secure the aircraft from explosives, so that is what they did. We had to amend the bill eventually and say we would have adequate security measures.

Mr. Chairman, the definition of adequate security measures includes machinery we do not have yet, dogs that we are using, swabs on the outside of luggage, and then hand searches. The bottom line is even the passenger baggage on aircraft is not fully checked for explosives. And then we learn to compound that, we have the cargo holds. Cargo that is put in the belly of a passenger aircraft is not checked, and it is just wrong.

We cannot say that we have adequate security measures to inspect cargo. We do not. It is a fraud. Maybe the chairman is right that this is an amendment that is going to be a problem, and maybe when we get to conference we will have to find a better way to deal with it, but we have to send a message.

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

Mr. SHAYS. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I respect the gentleman from Kentucky (Mr. ROGERS), and I know it is a difficult job that he has; but there are two programs in America. One is the known-tripper program. We are all part of the known-tripper program. Every American that gets on a plane is part of a known-tripper program. They want to know who you are. You have to show your ID. They are going to check you if you are suspicious. They are going to go through your bags. They do now care who you are, baby or grandmother.

The known-shipper program for cargo, on the other hand, going onto the very same place, only requires a piece of paper. They do not know what warehouse it really came from.

That al Qaeda operative that just got arrested last week ran a cargo firm. When he was interviewed, he said he was working with other people. He said the name of the firm was Kashmir, Kashmir Service. It was his own trucking company, a cargo firm. That is something we cannot run the risk of happening in this country. They have to go through the same screening for biological, chemical, and nuclear material that would go on a plane as every one of us on a known-tripper program has to go through. The gentleman from Connecticut (Mr. SHAYS) is right, we cannot afford not to pay the price. It might cost us some money, but America cannot afford not to pay it. It cannot be allowed to occur.

Mr. SHAYS. Mr. Chairman, the bottom line is a plane could be blown out of the sky from explosives in the belly of an aircraft because someone shipping cargo is simply able to get it on the airplane. We have learned from the terrorists there is no line they will not cross. I hope this amendment is passed; and then if we have to change the amendment, we can do that in conference.

Mr. Chairman, I rise in strong support of this amendment, which will require the Transportation Security Administration (TSA) to develop a plan to screen or inspect all cargo that is carried on passenger planes.

Since September 11, our nation's homeland defenses have undergone tremendous improvements. I truly believe we are safer today than we were prior to these heinous attacks, but we don't feel safer because we had a false sense of security that was cruelly lifted.

In 2001, when Congress was considering the Aviation Security Act, I was shocked to learn that less than 10 percent of checked baggage on domestic flights was being screened. I worked with Congressman Jay Inslee to add a provision to the bill requiring all checked baggage to be screened for explosives.

During a recent hearing of the Select Committee on Homeland Security, I was equally surprised to learn that air, which accounts for approximately 22 percent of all baggage on passenger flights, is not being screened for explosives. If we are not screening all the baggage and cargo on passenger planes, then we are once again giving the American people a false sense of security.

The bottom line is as long as cargo and baggage screening is incomplete, there are

gaps in aviation security that are unacceptable. TSA must come to grips with this challenge, which continues to leave too many air travelers at risk.

Mr. Chairman, I urge my colleagues to vote in favor of this common-sense amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think all of us have made it very clear that our efforts are to support the work of this appropriations subcommittee. But, Mr. Chairman, I rise in tribute, in remembrance of the many lives that have been lost through terrorist acts in the United States. It precedes the horrific tragedy of 9–11. I am particularly cognizant of the 1988 Pan Am 103 plane crash where an interline bag was the cause of that horrific tragedy where so many families lost their loved ones.

We know that we have come a long way from that tragedy. Our bags are in fact screened and unaccompanied bags are screened. But when we began this journey and we began to tell our airports and our airlines that they were going to have to haul in this enormous equipment and make sure that every bag was screened, what an uproar. Nobody thought it could happen. Nobody thought we would be successful. It would take too long. There would be backlogs.

□ 1815

Yes, it is an inconvenience; but we have done it, and every airport to a certain extent is working toward that goal. At our large airports we have these huge machines that our bags must go through. Why, then, Mr. Chairman, can we do any less or should we do any less for cargo, because as we have determined in our field visits, the same kind of activity is occurring in our ports, where in many instances we are checking paperwork and we are looking at paperwork given to us by foreign entities. Oh, yes, we do have criteria. Our intelligence gathering has improved. We are looking at different marks that staff and personnel can check off. When one mark does not come up, they say, this is suspicious and they put them in a different category. We are doing a better job. But I think this amendment of the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Connecticut (Mr. SHAYS) is a sensible, reasonable approach that may be inconvenient, may seem like a high mountain to climb; but in the long run we will be able to not only pay tribute and mourn the loss of those who over the years have died in terrorist attacks and in particular the Pan Am 103, which in my community we lost an endeared family member, we will be able to assure that we have done as much as we could do in that area.

That is why I think this is an important amendment, recognizing the hard work of this committee and the efforts that have already been made, but I clearly believe that our work is not complete. We mourn the loss of the Pan Am 103 and other tragic acts. Pan Am 103 was a suitcase that was unaccompanied, before our knowledge reached the sophistication of terrorists. Now we cannot speculate what cargo might contribute to some unfortunate and tragic act. Let us be proactive and get in front of this question and help the committee in the way that we could and can help it, and, that is, to look favorably on the amendment offered by the gentleman from Massachusetts.

Mr. STRICKLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support this amendment. But what I want to say more than anything else is that I think that those of us who serve in this Chamber deserve to tell the American people the truth. I believe that most moms and dads who get on an airplane and this summer when they take their families on vacations and they get on an airplane, they believe that those of us who serve in this Chamber have taken the necessary steps to see that they are not blown out of the sky as a result of a bomb being placed in cargo that is on that plane. I think most Americans think we are already doing this.

We want the airlines to succeed. We have given billions of dollars in aid to the airline industry. Can you imagine what will happen to passenger travel in this country if an airplane is blown out of our sky this summer with vacationers, travelers, businesspeople on it? This is something that we have got to face up to.

The gentleman from Washington (Mr. INSLEE) and I and others stood on this floor months ago when we argued night after night after night that there needed to be complete screening and inspection of everything that went onto an airplane. The American people heard that, and I think most of them agreed with us. But for us to say we cannot do it because we do not have the money is a hollow argument. We find money around here for everything we think is important. Everything that we truly believe is important, that is of value to us, we fund. It ought to be a value to make sure that those who travel on our aircraft can do so with the confidence that we have done everything humanly possible to protect them.

It is beyond me why we would not embrace this amendment. It is just beyond me. I hope we do not have to stand here in this Chamber at some time in the future and talk in somber tones about those who have lost their lives to a terrorist act when we could have taken an action that prevented that terrible tragedy from happening.

Mr. YOUNG of Alaska. Mr. Chairman, this amendment prohibits any funds from the Homeland Security appropriation from being used to approve a security plan that permits the transporting of unscreened or uninspected cargo on passenger planes.

Air cargo is a potential area of vulnerability in our aviation security system.

In the Aviation and Transportation Security Act, Congress moved to ensure that all checked baggage was screened for explosives. But carry-on baggage and air cargo is still not screened for bombs, at least not the plastic explosives that terrorists tend to use. However, carry-on baggage is screened by x-ray, and air cargo is screened by the ''known shipper program.'' In both areas, we could do better and I appreciate the efforts of the gentleman from Massachusetts to do so.

I am concerned that this amendment could be misinterpreted as requiring that all air cargo be put through an explosive detection system or be opened and physically inspected. If the plain language of the amendment required that, I would oppose it. That is clearly impractical, if not impossible. Currently, there are no machines large enough and quick enough to screen all air cargo in this way. And physical inspection is so cumbersome that it would grind our economy to a halt. This would be a particular problem in my State of Alaska, where the people are especially dependent on air cargo for obtaining necessary goods and service.

However, the amendment simply prohibits any funds from being spent to approve an airline security plan unless that plan provides that air cargo will be screened. Such screening is currently being done through the known shipper program and I would expect that to continue. Over time, new technology may enable us to improve air cargo screening and I would support the use of such technology as long as it would not impede the flow of air commerce.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

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

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

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

AMENDMENT NO. 1 OFFERED BY MR. MANZULLO

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. MANZULLO:

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''.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I raise a point of order against the gentleman's amendment because it proposes to impose new duties and constitutes legislation on an appropriations bill and therefore violates clause 2(c) of House rule XXI.

The CHAIRMAN. The gentleman from Virginia raises a point of order. Is

there further discussion on the point of order?

Mr. MANZULLO. My understanding is that the gentleman was going to reserve a point of order so I could get my point across.

Mr. TOM DAVIS of Virginia. I reserve the point of order.

The CHAIRMAN. The gentleman from Virginia reserves the point of order.

Mr. OBEY. Mr. Chairman, I would also reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Wisconsin also reserves a point of order.

Mr. MANZULLO. Mr. Chairman, the American economy is in the midst of a manufacturing crisis. Over the past 3 years, we have lost 2.6 million manufacturing jobs. In the past 12 months, 53,000 manufacturing jobs each month have been lost in this country. These are good-paying jobs. Small business manufacturers pay on average 20 percent more to their employees than other small businesses and provide a vast majority of the basic products such as tools, dies and molds that are essential to our national security and essential to our defense industrial base.

In 1981, Rockford, Illinois, my district's largest city, had an unemployment rate of 24.9 percent, the highest in the Nation. Today it is around 11 percent. I do not want to see a recurrence of what happened in 1981. But we are losing our industrial base in this country. Unlike the past when factories were closed during an economic downturn but reopened when times improved, today a too-frequent outcome is the permanent closure of the factory. The jobs leave forever. Young people entering the workforce do not have a manufacturing career choice left open to them as they did in the past.

Since 1933, the Buy American Act has safeguarded the interests of American manufacturers by requiring the Federal Government to purchase domestically produced products. But that only means 50.001 percent has to be American goods. The Department of Labor's May employment report showed again the 34th consecutive month of loss of manufacturing jobs.

Let me tell my colleagues what happened in Rockford, Illinois. After 112 years in business, Ingersoll Milling ceased operations. The Rockford machine tool maker was one of only two companies to make machines to shape radar absorbent composites into the skin of stealthy warplanes. In bankruptcy, a Chinese state-owned enterprise is trying to buy Ingersoll. The only plant that is left in the United States is in Kentucky and that is Cincinnati Machine. They have just downsized from 750 people to 350 people. We are losing the ability to have manufacturing facilities to defend the United States. The purpose of this amendment is to build that manufacturing core to say, wake up, Washington, wake up, America, the manufacturing jobs are gone, the security of our Nation is being imperiled.

This amendment simply increases the Buy American content from 50 percent to 65 percent. It is so simple. The money that is being used to protect America, we are only asking 65 cents of that be used to buy American products. This is a very simple amendment. We would ask that this body take its part in restoring American manufacturing in this country. I would urge my colleagues, urge them, beg them, beseech them, to adopt this amendment to help the restoration of our manufacturing base.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I move to strike the last word.

Actually, this amendment would radically change the current application of the Buy American Act from 50 percent to include products made in America even if most of the cost of the components, up to 65 percent, are produced domestically. This substantially increases the 50 percent test as provided in the current regulations.

Some companies have responded to the current Buy American Act restrictions by establishing costly, labor-intensive product-tracking systems that are not needed in the commercial business to ensure that the products are being sold to government. In a few cases, companies have simply stopped selling certain products in the Federal marketplace. This denies our government access to some of the latest, most cost-effective products in our fight against terrorism and preserving homeland security. This radical Buy American Act if it were allowed to be part of this legislation would impose financial and legal burdens on taxpayers and the commercial companies that sell to the Department.

I would, therefore, insist on my point of order.

POINT OF ORDER

The CHAIRMAN. Do the gentleman from Virginia and the gentleman from Wisconsin insist upon their points of order?

Mr. OBEY. Mr. Chairman, I would simply agree with the point of order lodged by the gentleman. I do not happen to have much of a problem with the substance; but it seems to me that if the rules are to be applied around here, they ought to be applied to everybody on both sides of the aisle.

The CHAIRMAN. Are there any other Members desiring recognition?

Mr. BALLENGER. Mr. Chairman, I would like to speak to the point of order.

The CHAIRMAN. The gentleman may proceed for five minutes. The point of order is reserved.

Mr. BALLENGER. Mr. Chairman, the Raleigh News & Observer headline this past Sunday said, ''North Carolina's Trade Deficit Soars: Manufacturing Slide Continues Despite Decline in Dollar.'' One in four North Carolinians employed in manufacturing have lost their jobs during the past 5 years. Plants across the State are closing their doors entirely, and other firms are moving jobs offshore, truthfully mostly to China.

North Carolina's 10th Congressional District has a disproportionately large percentage of local economies built on manufacturing. So the communities I represent are struggling even more due to this manufacturing recession. The National Association of Manufacturers reports that job losses will continue as long as U.S. imports from China are six times as large as exports to China. These statistics highlight why I have become a strong proponent of the newly formed Defense Industrial Base Caucus.

The U.S. cannot be reliant on foreign manufacturers of military or homeland security systems and equipment. We have got to invest in critical industries where we do not have the capacity for self-sufficiency and purchase goods from those United States sectors that are the best in the world. A recent admission from the Pentagon underscores the need for the U.S. to regain its manufacturing self-sufficiency. The Swiss Government's refusal to provide crucial bomb components during Operation Iraqi Freedom could have hampered our efforts in the fight effectively if the war had lasted a little longer. We cannot afford to be hamstrung by countries that disagree with our intentions and our goals as we defend the homeland.

The U.S. makes the best products in the world. We have got to provide jobs for the American people. There is no better place to demonstrate that commitment than providing our first responders with American-made products, procured with taxpayers' dollars.

The CHAIRMAN. Are there any other Members seeking recognition?

Mr. MCCOTTER. Mr. Chairman, I rise to address the point of order.

The CHAIRMAN. The gentleman's point of order is reserved. The gentleman is recognized for five minutes.

Mr. MCCOTTER. Mr. Chairman, I rise to address the point of order and in support of the amendment. My concern is that the American Government be as concerned about homeland security as we should be about household security. When tax dollars are taken from the American people, from the entrepreneurs and the people who create wealth in this country, those tax dollars should not be used by their government to put them out of work or to decimate our manufacturing base. I believe that this is a reasonable amendment, and I wholeheartedly support it.

The CHAIRMAN. Will the gentleman from Virginia advise if he insists upon his point of order and state the grounds for his point of order?

Mr. TOM DAVIS of Virginia. I do, Mr. Chairman.

Again, I make the point of order because it proposes to impose new duties and constitutes legislation on an appropriations bill and violates clause 2(c) of House rule XXI.

□ 1830

The CHAIRMAN. The Chair is prepared to rule. The Chair finds that this amendment explicitly supersedes existing law and the amendment therefore constitutes legislation in violation of clause 2 of rule XXI. Therefore, the point of order is sustained and the amendment is not in order.

Mr. FILNER. Mr. Chairman, I would challenge the ruling of the Chair.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I move to table.

The CHAIRMAN. The motion to table is not available in the Committee of the Whole.

The question is, Shall the decision of the Chair stand as the judgment of the Committee?

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman may state his parliamentary inquiry.

Mr. OBEY. Mr. Chairman, is this motion debatable?

The CHAIRMAN. The question is debatable under the five-minute rule.

Mr. OBEY. Then could I move to strike the last word?

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. OBEY. Mr. Chairman, I would simply urge the gentleman to withdraw his motion. I know of no one who disagrees with the ruling of the Chair, and I do not see why we should impose on the House when we already have seen another amendment dealt with on the subject in a proper manner. This amendment clearly was not. Everyone knew it was not in order, and there is no doubt in my mind the Chair's ruling is correct.

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the Committee?

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 385, noes 28, not voting 21, as follows:

[Roll No. 306]

AYES—385

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
Eshoo
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (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
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—28

Alexander
Baca
Baird
Ballance
Boswell
Costello
Etheridge
Filner
Green (TX)
Hinchey
Hinojosa
Jackson-Lee (TX)
Kucinich
McDermott
Menendez
Nadler
Oberstar
Owens
Pastor
Sanders
Scott (VA)
Tanner
Taylor (MS)
Towns
Turner (TX)
Velazquez
Waters
Woolsey

NOT VOTING—21

Bonilla
Brown-Waite, Ginny
Burr
Conyers
Cox
Cubin
Dingell
Dooley (CA)
Doyle
English
Gephardt
Hunter
Hyde
Keller
Kleczka
Moran (KS)
Paul
Reyes
Skelton
Smith (WA)
Wynn

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). There are 2 minutes remaining on this vote.

□ 1858

Messrs. SANDERS, BACA, TOWNS, and GREEN of Texas changed their vote from ''aye'' to ''no.''

Ms. HART, Ms. HARMAN, Ms. MILLENDER-MCDONALD, and Messrs. INSLEE, ACKERMAN and HAYES changed their vote from ''no'' to ''aye.''

So the decision of the Chair stands as the judgment of the Committee.

The result of the vote was announced as above recorded.

□ 1900

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (preceding the short title), insert the following:

SEC. . The Secretary of Homeland Security shall develop measures to simplify and expedite the grant allocation process of the Department of Homeland Security so that a percentage of funds is provided directly to fire departments in urban and rural areas, police departments, law enforcement agencies, hazardous materials teams, emergency medical staff, and other first responders, hospital districts, school districts, city and county governments, non-profit organizations, port and airport security, and citizen corps groups in the 10 cities most vulnerable to terrorist attacks, without the funds being first allocated to State government agencies.

Ms. JACKSON-LEE of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman reserves a point of order.

The gentlewoman from Texas is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as we have been proceeding with this debate, I think we have been on common ground that the security of America's homeland has to be our first priority. Many of us have agreed with the leadership of the gentleman from Wisconsin (Mr. OBEY), that a billion dollars needed to be added to the Homeland Security appropriations to be able to give and free the hands of the appropriators on the many, many needs that are facing our Nation. But there is another issue, Mr. Chairman, that I think is crucial for us to be able to address directly: The needs of our neighborhoods, and let me share them with you.

Mr. Chairman, my amendment specifically and particularly isolates the crux of the problems that I have heard from many, many local communities. In fact, Mr. Chairman, in a hearing with Secretary Brown, an Assistant Secretary under the Homeland Security Department, in his energetic testimony he acknowledged the importance of involving the local community in their own security.

I do not know if many of my colleagues are aware that in the Homeland Security authorizing legislation there are the concepts called citizen corps. These are organizations that are resident in our respective communities, engaging neighborhoods, towns, cities and rural areas in their own security. But yet there is no funding for those particular entities. This amendment simplifies or asks that the process of getting funds to our local entities be expedited so that a percentage of funds be provided directly to fire departments in urban and rural areas, police departments, law enforcement agencies, hazardous material teams, emergency medical staff, and other first responders, hospital districts, school districts, city and county governments, nonprofit organizations, port and airport security and citizen corps groups in the 10 cities most vulnerable to terrorist acts.

Let me share with you, Mr. Chairman, testimony from Noel Cunningham in our field hearing just this past weekend, the Chief of the Port Police of the Port of Los Angeles. His words can apply to ports all over the Nation, but also to communities all over the Nation.

Since 9/11 we have spent approximately $6 million of our own funds to enhance port security. We have added staffing and equipment resources for our port police. What they actually need, Mr. Chairman, is they need resources to help us, if you will, for their personnel. That is one of the things that we heard, that buying equipment, which is some of the limiting requirements of grants, is not their only need. They need it for personnel and we have not been able to provide monies for personnel.

As a central component to the Nation's economic engine, we need to receive a reasonable and appropriate share of the Federal port security funding. That is another comment from Chief Cunningham. So my amendment would simply provide an expedited way to get monies into homeland security.

I had another amendment, Mr. Chairman, that I had discussed in the rules, and that is to make sure that no monies are spent as an abuse of power at the Homeland Security Department. That is, of course, whether you think it is humorous that 55 Democrats in Texas ran away to avoid a quorum, they used their constitutional rights. I am sorry that that amendment could not be brought up today, and that is an amendment that says we limit the use of the Homeland Security funds for any surveillance or tracking of individuals not related to homeland security. I am going to continue to work on that issue because it is a crucial issue.

But on this matter I would like to pose a question to the chairman of the committee, the gentleman from Kentucky (Mr. ROGERS), as it relates to the question of working with local communities to get resources directly in their hands, first responders, port and airport security, the citizen corps group, though we know that they are not necessarily funded but working with civic clubs on getting resources, when I say civic clubs, civic communities, county and city governments to get funds directly in their hands so that neighborhoods and communities can be safe.

Mr. Chairman, I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentlewoman for yielding.

We have provisions in this bill that requires that the State to whom we give the money must send the money on to the localities within 30 days, and then 80 percent of the monies that we give to those States must be passed on to local units of government within 60 days. Those are provisions in our bill that we added in an attempt to force the money quickly to the community.

Ms. JACKSON-LEE of Texas. Reclaiming my time, I appreciate the gentleman's response.

What I would like to be able to say to this body is that even as we give those instructions to the State, what I am finding out by our local responders, and I use that term broadly, but our community, local community interests who have the responsibility for securing the neighborhoods, the neighborhoods that are around ports, the neighborhoods that are around refineries, the neighborhoods that are in dangerous high terrorist vulnerable areas is that the processes are so difficult.

I hope that this body can work through the process that we will be able to provide a less complicated process and expedite the application process so that our local communities, civic clubs and all will be able to have the resources they need.

Mr. Chairman, I propose this amendment to H.R. 2555, the Department of Homeland Security appropriations bill and I urge my colleagues to support my amendment.

The purpose of this amendment is to expedite and simplify the grant application process so that needed homeland security funds go directly to first responders, local districts, and local government agencies, without first going to the States.

The efforts to secure our homeland will occur at the local level. City and county fire departments, police departments, hazardous materials teams, and other first responders will need to be well-equipped to protect American citizens from terrorist attacks. In our efforts to fund our local first responders Congress has authorized and appropriated hundreds of millions of dollars. However, few of those dollars have made it to the hands of local first responders.

I participated in two hearings last week with representatives of government agencies who confirmed that funds are not getting to America's local first responders. First, at a hearing of the full Select Committee on Homeland Security, Undersecretary Mike Brown of the Federal Emergency Management Agency and the Department of Homeland Security said that delays getting funds to local first responders and civic groups persist. During on-site reviews last weekend, Chief Cunningham of the Los Angeles Port Authority confirmed that few, if any, federal homeland security dollars are reaching first responders.

One reason for the delay is that often funds appropriated to city and county agencies for homeland security initiatives, through a lengthy application process, must first be disbursed to the States. State governments then have their own grant application process for funds disbursed by the Department of Homeland Security. This unnecessary application process preventing local communities from finalizing the preparations for dealing with terrorist attacks and is endangering our citizens.

I propose this amendment to the Department of Homeland Security appropriations bill to disburse a percentage of the funds directly to local homeland security organizations in those cities, including Houston, that were deemed more vulnerable to a terrorist attack by Secretary Tom Ridge. This amendment will allow local organizations engaged in homeland security to get funds now.

Mr. Chairman, this amendment will enable many communities to prepare for terrorist attack without further unnecessary delay. This amendment protects America's citizens and I urge my colleagues to support this amendment.

AMENDMENT TO HOMELAND SECURITY APPROPRIATIONS BILL, 2004 OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of the bill (preceding the short title) insert the following:

SEC. ____. None of the funds made available in this Act may be used for political purposes or any other purpose not related to protecting homeland security, including for—

(1) use of the surveillance powers of the Department of Homeland Security, for a purpose not related to protecting homeland security, to—

(A) tap personal or business telephones; or

(B) otherwise monitor or record conversations or activity in any home, office, or other location; or

(2) use of the investigative powers of the Department of Homeland Security, for a purpose not related to protecting homeland security, to track automobiles, airplanes, or other modes of transportation.

Mr. Chairman, I propose this amendment to H.R. 2555, The Department of Homeland Security appropriations bill and I urge my colleagues to support my amendment.

This amendment prohibits the use of funds made available to the Department of Homeland Security through this act from being used for political purposes, or other purposes not related to protecting homeland security.

In the course of the recent redistricting controversy in Texas, several allegations of misuse of resources of the Department of Homeland Security surfaced. Specifically, there were reports that the Air and Marine Interdiction Coordination Center, which is staffed by employees of the Department of Homeland Security, received a telephone call asking the Coordination Center to locate a particular aircraft that belonged to former Texas House Speaker Pete Laney. There were also allegations that surveillance was conducted on private and business phones, and that the Department of Homeland Security was involved with the Texas Department of Public Safety in the destruction of documents related to the redistricting controversy.

The use of Department of Homeland Security resources for political purposes endangers the lives of American citizens. While hundreds of millions of dollars are authorized and appropriated to protect our homeland, every one of those dollars is needed if America is to be protected from terrorist attacks. The police departments, fire departments, emergency medical staffs, hazardous materials teams, and other first responders across the country are in dire need of equipment and operational funds. Every available dollar appropriated for Homeland Security should be used for homeland security initiatives.

My amendment to the Department of Homeland Security Appropriations bill will insure that funds are not misused for political purposes or other purposes not related to homeland security. My amendment will also ensure that the wasteful, political use of funds that occurred in Texas last month does not occur in other cities.

Mr. Chairman, my amendment is a non-partisan proposal that will protect the constituents of every member of this committee, and every Member of the House of Representatives. I urge my colleagues to support my amendment.

The CHAIRMAN. Does the gentleman insist upon his point of order?

Mr. ROGERS of Kentucky. I do, Mr. Chairman.

The CHAIRMAN. Will the gentleman state his point of order?

Mr. ROGERS of Kentucky. Does the gentlewoman have a statement she would care to make in regard to the amendment?

The CHAIRMAN. Are there any Members wishing to be heard on the point of order?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I will withdraw this amendment, but let me just simply say very briefly that our responsibility is to ensure the homeland, and I, in my advocacy, believe that is the neighborhood.

I would like to work with the chairman in respect of this point of order on getting rid of the red tape that is also bogging down the State system so that monies can get, as I said, to the hazardous material teams, the emergency medical staff, the first responders, hospital districts, school districts in a fast and efficient way.

Finally, Mr. Chairman, that we can manage to unstrap these local communities from using these funds for equipment only but can use it for personnel. I hope that we can work together to ensure that.

Mr. Chairman, I am going to withdraw this particular amendment as it is subject to a point of order at this time.

The CHAIRMAN. The gentlewoman asks to withdraw her amendment.

Is there objection to the request of the gentlewoman from Texas?

There was no objection.

AMENDMENT NO. 6 OFFERED BY MS. BALDWIN

Ms. BALDWIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. BALDWIN:

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.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman reserves a point of order against the amendment.

The gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes on her amendment.

Ms. BALDWIN. Mr. Chairman, my amendment is simple. It would prohibit funds from being 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 of ships unless the main diesel engines are manufactured in the United States.

The Coast Guard's Deepwater program is a large acquisition effort to replace and modernize the aging fleet of the Coast Guard ships. I fully support this program. However, when procuring the most critical components of these ships, the main propulsion engines, I believe the Coast Guard should contract with American firms that make the engines here in the United States.

The Department of Defense in many instances already must contract with firms that produce their components here in America. Because the Coast Guard was previously under the Department of Transportation and is now under the Department of Homeland Security, it has not been subject to these domestic manufactured provisions for components. I believe our government should contract with American firms whenever possible. The Federal Government is one of the largest customers in the world. Using American labor can help get our economy back on track. But in particular, in matters of national security, we should ensure that American workers build what we need to keep America safe.

After September 11, we tragically learned that Americans were not as safe, even on our own soil, as we had once thought. The Coast Guard's mission has increased exponentially since that awful day. In this uncertain time and as we have experienced shifting global alliance, it makes no sense to allow foreign nations to build critical component for large Coast Guard vessels. After all, the Coast Guard is now in the Department of Homeland Security, and is not keeping capable, hard working Americans working the essence of homeland security?

I have a firm in my district that produces these engines. They were ready to start filling orders tomorrow. They competed in the first round of Deepwater engine contracts awarded earlier this year. Even though they can prove that their engines would cost less in total operating costs, the Coast Guard gave the contract to a German firm that will now build engines in their homeland. And so that Members understand that this is not strictly a local issue for me, there are several other firms in the United States that stand ready to compete for these contracts and are perfectly capable of producing quality American-made engines for the Coast Guard.

I have often visited the employees of the plant in my district. They are confused and frustrated. They do not understand why a branch of the Armed Services would choose to give a major contract to a foreign competitor. Although their plant is operational, there are many workers who are currently laid off. The workers that I talk to are not only worried for themselves and their families, they are desperately worried about their buddies who are waiting, waiting for the call that tells them to come back to work so they will be able to support their families once again.

Mr. Chairman, we are bleeding good-paying, family-supporting manufacturing jobs in this country. When manufacturing jobs go away, our history shows us that it is very hard to get

them back. My amendment is a small but needed change to the current Coast Guard procurement process.

The gentleman from Kentucky (Mr. ROGERS), the chairman of the subcommittee, has reserved a point of order against this amendment. The gentleman has a choice. He can insist and press on with his point of order and continue funneling good paying jobs overseas or he can allow this amendment to go forward as we just did a short while ago with the amendment presented by the gentleman from North Carolina (Mr. HAYES). I hope that he has the best interest of America's working families at heart.

The CHAIRMAN. The gentlewoman has yielded back.

Does the gentleman from Kentucky (Mr. ROGERS) insist upon his point of order?

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve the point of order.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I speak in opposition to the amendment which I believe is nothing more than a blatant attempt to use the legislative process to give one American company an unfair competitive advantage over another American company. It is wrong and should be defeated.

The amendment seems innocent enough. No funds should be used to 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 U.S. by a domestically operated entity.

Now, that sounds just like a restatement of the Buy American Act, but it is not. The Buy American Act does not consider the nationality of the contractor when determining if a product is of domestic origin. Manufactured articles are considered domestic if they have been manufactured in the U.S. from components ''substantially all,'' quote, of which have been mined, produced or manufactured in the U.S.

□ 1915

''Substantially all'' means that the cost of foreign components does not exceed 50 percent of the cost of components.

Now, when the Coast Guard wants to purchase diesel engines for its ships, it has two options, Detroit Diesel in Michigan, Utah, Kansas and I believe Ohio, and Fairbanks Morse Engine in Wisconsin. Both are fine companies that manufacture their engines in the U.S. with components, substantially all of which come from the U.S. as well. They both comply with the Buy American Act, creating a healthy competition for the Coast Guard's contracts, which I think we would all agree is a good thing; but it seems that some people do not want competition.

Detroit Diesel is a subsidiary of that German company Daimler Chrysler, which is based in Germany, while Fairbanks Morse Engine is based in the U.S. and notably I believe only in Wisconsin.

The current procurement program for the Coast Guard Deepwater program, for which these engines will be built, is already under way. If this amendment were to be signed into law, Detroit Diesel will no longer be eligible for Coast Guard contracts because it is not a domestically operated entity.

Fairbanks Morse Engine will corner the market, not because it builds better diesel engines than Detroit Diesel, but because it found a way to shut out the competition; and it will have done so by changing the rules in the middle of the game.

There are 5,000 Americans working in those four States for Detroit Diesel. They build diesel engines that the current law says are American products. These Americans should not be penalized because their parent company is based in another country. Congress should not even be involved in this issue.

This amendment is frankly outrageous. It is not our job to give one American company a competitive advantage over another, and I obviously implore my colleagues to not be fooled by what seems to be an innocuous amendment, but there are 5,000 Americans who work for Detroit Diesel who are waiting and depending on us and the Members of this body.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I move to strike the last word.

I rise in support of the gentleman's point of order. This amendment would apply a radical domestic source restriction to the acquisition of main propulsion diesel engines for use in Coast Guard vessels, and my friend from Michigan just said, in the middle of the game. It could delay this procurement.

This could have a devastating effect on the Coast Guard's ability to buy the best propulsion engines at reasonable cost to support its critical antiterror missions because it takes competition out of the picture. Restrictive provisions such as these run counter to efforts to create an open, flexible, responsive, and impartial competitive acquisition system that will enable all government agencies, including the Coast Guard, to acquire from the world market the best products available at fair and reasonable prices. Indeed, we owe our taxpayers nothing less than to get the best value for the taxpayer dollar as we buy these, and this amendment abrogates that Buy America Act provisions apply here.

It has been reiterated here by the gentleman from North Carolina (Mr. HAYES) that this amendment would impose substantially new duties on the Department, and because of that I believe it also violates House rule XXI; and I want to applaud the gentleman for raising the point of order and support it.

POINT OF ORDER

Mr. ROGERS of Kentucky. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and, therefore, violates clause 2 of rule XXI which states in pertinent part, an amendment to a general appropriations bill shall not be in order if changing existing law. The amendment gives affirmative direction in effect.

I ask for a ruling from the Chair.

The CHAIRMAN. Does any other Member wish to be heard on the point of order against the Baldwin amendment? If not, the Chair is prepared to rule.

The Chair finds that this amendment does include language conferring authority; and, therefore, the amendment constitutes legislation in violation of clause 2 of rule XXI, and the point of order is sustained, and the amendment is not in order.

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS:

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) The Secretary of Homeland Security shall conduct a review of the proposed project for construction of a remote passenger check-in facility at Los Angeles International Airport to determine whether the project as designed will protect the safety of air passengers and the general public.

(b) Upon completion of the review and not later than the end of fiscal year 2004, the Secretary shall transmit to Congress and the Administrator of the Federal Aviation Administration a report containing the results of the review.

Ms. WATERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Chairman, if the gentleman from Wisconsin's (Mr. OBEY) amendment had been accepted, there would be no need for my amendment. His amendment did what I think needed to be done in order to make our Homeland Security Department real.

The gentleman from Wisconsin's (Mr. OBEY) amendment would have shored up what we say we want to do by appropriating $1 billion to improve aviation security, maritime security, infrastructure security, and border security and port security.

Now, it seems to me if this administration was serious about homeland security, we would not hear these weak arguments that we are hearing on the floor tonight. It is absolutely amazing that the people on the other side of the aisle, my colleagues on the other side of the aisle can get up and defend against needing more money to make

our homeland secure. It is really not to be understood how they can defend contracts going to foreign companies when we have Members on this floor begging for the opportunity to have these contracts in their districts to do something about this unemployment that was created by this administration.

Mr. Chairman, the day is over for flashlights and duct tape and plastic material. This is about some serious business. Some of us really do take this seriously. We want to fight terrorism. We want to spend the money on it. We want to have real homeland security, and I am absolutely amazed that my friends on the other side of the aisle do not understand that.

I come because I have got a problem in Los Angeles. The Los Angeles International Airport, which is located in my congressional district, is the third largest airport in the United States with a capacity to serve 78 million air passengers per year. On July 2, 2002, Los Angeles Mayor Jim Hahn proposed a plan to expand LAX by constructing a remote passenger check-in facility. The mayor estimated that this project would cost 9 to $10 billion. The environmental impact report on this project is due to be released in the near future.

Supporters of this proposed project to construct a remote passenger check-in facility claim that the facility is necessary to improve the safety and security of LAX and prevent terrorist attacks at LAX. However, it is even more likely that the concentration of passengers in a remote passenger check-in facility could actually reduce the safety and security of LAX.

The Rand Corporation conducted a security study of the proposed remote passenger check-in facility, which was released on May 14, 2003. The study concluded that the proposed project would not improve the security of LAX. The study also concluded that concentrating passengers in the proposed remote passenger check-in facility would make the check-in facility the likely target of a terrorist attack. The study even suggested that concentrating passengers in the remote passenger check-in facility could exacerbate the effects of an attack on airport operations.

The Rand study did conclude that limiting the capacity of the airport could reduce the overall vulnerability of LAX to terrorist attacks. However, this could be accomplished by maintaining LAX at its existing capacity, with no additional airport construction projects.

My amendment would require the Secretary of Homeland Security to review the proposed project to construct a remote passenger check-in facility at LAX to determine whether the project will protect the safety of air passengers and the general public. The Secretary will be required to transmit to Congress and the Federal Aviation Administration a report containing the results of the review.

Mr. Chairman, I am simply saying homeland security, look at this, review it, give us an assessment. If we are about the business of securing the homeland, this is a very simple request. If, in fact, my airport, which is already identified as one of the highest security risks in the United States, is attacked because we are concentrating passengers, I have been to the Committee on Rules twice. I am on this floor, and if I cannot get support for a simple review to talk about whether or not this would be safe, then something's wrong with those who purport to want homeland security.

Mr. Chairman, I am here today to say that again the gentleman from Wisconsin's (Mr. OBEY) amendment should have been accepted because this amendment will ensure that we have a real emphasis on homeland security in fighting this terrorism. Without it, we are just joking; we are playing games. We do not really mean that we want to support terrorism.

POINT OF ORDER

Mr. ROGERS of Kentucky. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and, therefore, violates clause 2 of rule XXI which states in part, an amendment to a general appropriations bill shall not be in order if changing existing law. The amendment imposes additional duties and, therefore, violates the rule.

I ask for a ruling from the Chair.

The CHAIRMAN. Are there further Members desiring to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair finds that this amendment does include language imparting direction. The amendment, therefore, constitutes legislation in violation of clause 2 of rule XXI, and the point of order is sustained and the amendment is not in order.

AMENDMENT OFFERED BY MR. TANCREDO

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

The Clerk read as follows:

Amendment offered by Mr. TANCREDO:

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 provide assistance to any State or local government entity or official that restricts any government entity or official from sending to, or receiving from, the Department of Homeland Security information regarding an individual's citizenship or immigration status, as prohibited under section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

Mr. OBEY. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes on his amendment.

Mr. TANCREDO. Mr. Chairman, as was indicated in 1996, this body did, in fact, pass the Illegal Immigration Reform and Immigration Responsibility Act. One provision of that act states notwithstanding any other provision of Federal, State or local law, a Federal, State or local government entity or official may not prohibit or in any other way restrict any government entity or official from sending to or receiving from the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

It is a good provision of law. I am glad that we passed it. One problem with it is that there are no provisions for any sort of sanction should a State, local, or any other agency choose to violate the law.

It was indicated earlier there was some degree of indignation that was identified as appropriate by some of my colleagues on the other side when we have corporations, they say, who have fled from the United States, sought some sort of tax haven off the coasts of America, yet would make application for funds under this act. They were indignant and outraged; and I, by the way, share that feeling of indignation.

It is also, I think, somewhat outrageous to have cities apply for funds under this act when they pass legislation, which has been done in several cities around the country, that actually prevents the law enforcement agencies in those cities from sharing information or obtaining information from the Immigration and Naturalization Service, or the Bureau of Immigration and Customs as it is now known.

So this is a very simple amendment. It just says a person cannot obtain funds under this act if they are, in fact, one of those cities that have done as I have just described.

□ 1930

Mr. SABO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I was trying to listen to the gentleman from Colorado as he explained his amendment. I have read the amendment several times and I, frankly, have to admit I do not understand it.

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

Mr. SABO. I yield to the gentleman from Colorado.

Mr. TANCREDO. Mr. Chairman, I would be happy to explain it again. The purpose of the amendment is to restrict the ability of cities, counties, and local entities that have violated provisions of the 1996 act which are word for word what we have described in this amendment.

Mr. SABO. Mr. Chairman, reclaiming my time, we now have a new department. It could not have existed in 1996.

Mr. TANCREDO. Mr. Chairman, if the gentleman will continue to yield, I would note that the law, and as I understand the law subsequent to that time, has indicated the term INS can be used interchangeably with Homeland Security, or the Bureau of Immigration and Customs.

Mr. SABO. So it applied to the INS, the existing law?

Mr. TANCREDO. If the gentleman will continue yielding, the original law in 1996, yes, it did.

Mr. SABO. Would it now apply to all parts of the Department of Homeland Security, so it would also apply to TSA?

Mr. TANCREDO. The law applies as it applied before. It does not change the application of the law, it simply provides some enforcement mechanism.

Mr. SABO. But does it expand who the law applies to?

Mr. TANCREDO. If the gentleman is continuing to yield, it does not. It is exactly the same wording of the 1996 act. The only thing we are doing is adding some sort of sanction for its violation.

Mr. SABO. Are there new and different grants that could be restricted?

Mr. TANCREDO. Grants under the provisions of this act.

Mr. SABO. I am trying to understand, again, Mr. Chairman. Can the gentleman tell me who the original law applied to, in what form?

Mr. TANCREDO. Shall I read the law again? Does the gentleman wish me to read the law?

Mr. SABO. Yes.

Mr. TANCREDO. Notwithstanding any other provision of Federal, State or local law, a Federal, State, or local government entity or official may not prohibit or in any other way restrict any government entity or official from sending to or receiving from the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

As I say, this amendment does not change anything except it adds a sanction for any one of those entities that in fact violate the law.

Mr. SABO. But, Mr. Chairman, what I am trying to get at, I guess, is my understanding that you are saying that the old law applied to the INS; this law now applies to the Department of Homeland Security, which is 22 agencies rather than one agency.

Mr. TANCREDO. The gentleman is correct that this act, the act that we are amending, does in fact include TSA, Coast Guard, Secret Service, and First Responders, and the amendment would apply to all of those agencies also.

Mr. SABO. So it would be a significant expansion in the scope of what the current law is?

Mr. TANCREDO. I suppose under that interpretation that is true.

Mr. SABO. I thank the gentleman.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from Wisconsin insist on his point of order?

Mr. OBEY. Yes, I do. I think the gentleman's last words indicate the validity of the point of order.

As I understand it, under the gentleman's amendment, if States prohibit information from going to the Homeland Security agency, then the State can get no dollars under this act. My understanding of current law is that it only prohibits States from providing information to the INS. But Homeland Security, as the gentleman from Minnesota has indicated, includes TSA, it includes the Coast Guard, it includes Secret Service, FEMA, and a number of other agencies.

To me, this amendment substantially expands the scope of the coverage and, therefore, I think is legislation on an appropriations bill and not in order under the House rules.

The CHAIRMAN. Do any other Members desire to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair notes that the limitation addresses a broader segment of the Executive than is addressed by the cited statute. As such, the amendment is susceptible to the construction that it attempts to apply the cited statute in cases where it is not otherwise applicable.

Because the proponent of the amendment has not carried the burden of persuading the Chair that the amendment is solely a negative restriction on funds in the bill without changing the application of existing law, the Chair is constrained to sustain the point of order. The amendment is not in order.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill (preceding the short title), insert the following:

SEC. . In addition to the amounts provided elsewhere in this Act, the amount of $3,000,000 is hereby appropriated to the Secretary of Homeland Security for a grant to the University of Texas Center for Biosecurity to establish a homeland security training capacity in Houston, Texas, with strong academic and community partners.

Mr. ROGERS of Kentucky. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Kentucky reserves a point of order on the amendment; and the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes on her amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I recognize that this amendment that I intend to discuss would be considered an earmark. I would like to think that the reason I am bringing this amendment to the floor goes to the earlier debate that we had on the question of expediting funds to those who are in the fight against terrorism.

Mr. Chairman, there is a desperation out there, Mr. Chairman, and, frankly, this particular program is a program that has a very important mission. In a few days the Select Committee on Homeland Security will be marking up the BioShield legislation that is to provide, in essence, a shield around the United States against bioterrorism. The mission of this center is to educate the front line public health work force, medical and emergency responders, key leaders, and other professionals to respond to threats such as bioterrorism and other emergencies that affect our communities. The center responds to the unique challenges in Texas to which regional campuses, including three sites along the critical U.S.-Mexican border, and through its urban campuses located in San Antonio, Dallas, and Houston.

Mr. Chairman, this is not a request because it happens to be in my area, but it is a request because Texas is listed as one of the most vulnerable areas for terrorism. This center will work nationally. The center works with academic institutions, governmental agencies, and relief organizations to promote our health security programs.

This amendment I am offering is representative of a number of amendments that I have offered on the basis that there is desperation out there. Another amendment that is not part of this but I want to make mention of, Mr. Chairman, is an amendment for $1 million to the University of Texas Health Science Center and Charity Productions to develop community-based homeland security preparedness. This, I hope, will educate my colleagues, along with other Members interested, to the fact that we must ensure the protection of the neighborhoods.

This particular proposal coming from the University of Texas Health Science Center and Charity Productions is to provide for an emergency preparedness education program for community residents. Charity Productions is also developing an emergency preparedness education program in conjunction with the University of Texas. The civic organization collaborates with human service organizations, such as the Red Cross and the NAACP. To date, this civic coalition has held several emergency and disaster citizen workshops.

The goals of the partnership between the University of Texas Health Science Center and Charity Productions is to train neighborhood stakeholders, provide a comprehensive rage of opportunities to ensure neighborhood safety, and to facilitate full participation for all community residents, whether or not their active language is English, to increase community partnerships and to work with governmental programs to provide the support and training necessary at the grass roots level. The value of these collaborative efforts in the event of a terrorist attack is immeasurable.

The question always has to be that when we try to secure the homeland we have to secure the neighborhoods. These earmarks that I am suggesting are clearly to bring to the attention of this floor that we must expedite the funds to these local communities.

My other amendment, that again I will simply discuss, has to do with resources to the Houston Bureau of Immigration Customs Enforcement, and the grounds are basically the same;

that in fighting terrorism there are some places that have a higher ranking. Houston was ranked number seven on the list of cities most vulnerable to a terrorist attack by Secretary Tom Ridge of the Department of Homeland Security. Certainly we need effective immigration controls necessary to add to the safety of the region.

Mr. Chairman, it is crucial as we move through this process that we realize that all of this cannot be done in Washington. It has to be done on the homefront. Again, I remind my colleagues of the overview that many of us took this past weekend when we could clearly see neighborhoods within yards, within blocks of very dangerous or potentially dangerous areas, meaning they were vulnerable to terrorist attacks. While I was in California, there was a train derailment that wound up going into a local crowded residential area.

Mr. Chairman, desperation causes us to want to move the Department faster, to want to move the funds faster, to want to simplify the process to ensure that monies are gotten directly to those who are doing research.

I also want to add, Mr. Chairman, the importance of including Hispanic serving institutions in research, which is what this BioShield effort will do and these monies will do, historically black colleges, Native American institutions, Asian Pacific so we can expand the reach to culturally diverse communities. So though we may not be able to move forward today, we clearly should be moving forward to be of greater assistance to those who are securing the homeland.

Mr. Chairman, I propose this amendment to H.R. 2555, the Department of Homeland Security appropriations bill, and I urge my colleagues to support my amendment.

The purpose of this amendment is to appropriate funds to the University of Texas—Center for Biosecurity, in conjunction with academic and community partners, to establish training programs for dealing with biological terrorist attacks in the Houston area.

Protecting America's homeland will be accomplished at the local level. To adequately prepare local police departments, fire departments, hazardous materials teams and other first responders will require expert training and education. Additionally, preparing community-based nonprofit organizations and civic corps will require guidance on how members of the community can help government agencies in the event of a terrorist attack. The University of Texas—Center for Biosecurity's training initiative will not only prepare the Houston area to deal with a terrorist attack, it will provide a training model for other cities across the country.

The University of Texas—Center for Biosecurity is located within the School of Public Health of The University of Texas Health Science Center at Houston. The mission of this center is to educate the frontline public health workforce, medical and emergency responders, key leaders, and other professionals to respond to threats such as bioterrorism, and other emergencies that affect our communities. The center responds to the unique challenges in Texas through its regional campuses, including three sites along the critical United States-Mexico border and through its urban campuses located in San Antonio, Dallas, and Houston. Nationally, the center works with academic institutions, governmental agencies, and relief organizations to promote our health security program objectives. The Center for Biosecurity is organized into four main homeland security cores to conduct its programs: training and education, research, integrated response, and community service.

The Training and Education component provides an integrated forum to bring critical community responders together under the philosophy of ''training together to respond together.'' This endeavor includes both short-term targeted programs of instruction, as well as longer term opportunities for more specialized education culminating in master's and doctoral degrees.

The research component focuses on emerging public health and safety issues to provide analysis, evaluation, and technology solutions for homeland security health threats that endanger the community and those who must respond to preserve their health. The center also strives to translate new ideas into effective solutions that address State-based health security needs.

The Integrated Response component works with public health, medical, and affiliated first responders to identify training needs to improve our Nation's health security. In addition, we strive to provide the tools for preparedness and response where active collaboration between vital emergency response sectors will be critical to achieve the best health outcomes for the population. Lessons from the military are integrated into civilian practice.

The Community Service component provides expertise for planning, training exercises, executive leadership, public health, and hospital preparedness in both domestic and international settings. Partners in vulnerable communities are critical to this preparedness effort. Local partners integral to this center include Texas Southern University on issues related to providing mass medical prophylaxis to underserved populations, and Prairie View A&M on issues related to public health outreach and nursing.

Mr. Chairman, the University of Texas—Center for Biosecurity is a critical program for preparing the Houston area for a terrorist attack. My amendment will provide needed funding for this pilot program. I urge my colleagues to support my amendment.

AMENDMENT TO H.R. 2555, AS REPORTED
OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of the bill (preceding the short title), insert the following:

SEC. . In addition to the amounts provided elsewhere in this Act, the amount of $3,000,000 is hereby appropriated to the Secretary of Homeland Security for a grant to the University of Texas Center for Biosecurity to establish a homeland security training capacity in Houston, Texas, with strong academic and community partners.

Mr. Chairman, I propose this amendment to H.R. 2555, the Department of Homeland Security Appropriations bill and I urge my colleagues to support my amendment.

This amendment requests that $1,000,000 in Department of Homeland Security funds be appropriated for the University of Texas Health Science Center and Charity Productions to develop community-based homeland security preparedness measures.

Securing America's homeland must be accomplished at the local level. It is imperative that community-based organizations work in conjunction with state and local government officials, first responders, and medical personnel to ensure that needed services are provided to the community in the event of a terrorist attack, and needed information only available to members of the community gets to public officials. The partnership between University of Texas Health Science Center and Charity Productions seeks to develop and implement programs to assist local community officials in their homeland security preparedness efforts.

The University of Texas Health Science Center at Houston embraces a mission to advance the health of the people of the State of Texas, the Nation, and our global community through educating compassionate health care professionals and innovative scientists. The University of Texas Health Science Center at Houston supports its mission by working with the community organizations to meet the needs of local residents. Charity Productions is a nonprofit organization dedicated to providing innovative programs and workshops for community groups, school districts, parents, youths, law enforcement agencies, and various other service providers.

Charity Productions has developed a prototype community activism initiative designed to reach underserved communities and get them active in homeland security efforts through civic clubs. The local focus of the charity allows members of the community to work directly with health care, fire, and police officials to prepare for terrorist attacks. The University of Texas Health Science Center brings technical, medical and emergency expertise to the partnership. One of the goals of MNP is to develop and implement an Emergency Preparedness Education Program (EPEP) for community residents. Charity Productions is also developing EPEP in conjunction with the University of Texas. The Civic Organization Collaborates with human service organizations such as the Red Cross, and NAACP. To date the Civic Coalition has held several Emergency and Disaster Citizens Workshops.

The goals of the partnership between University of Texas Health Science Center and Charity Productions are: to train neighborhood stakeholders; provide a comprehensive range of opportunities to insure neighborhood safety; to facilitate full participation for all community residents whether or not their active language is English; to increase community partnerships; and to work with governmental programs to provide the support and training necessary at the grassroots level. The value of these collaborative efforts in the event of a terrorist attack is immeasurable.

Mr. Chairman, this amendment requests funds to implement a program that will provide safety to the citizens of the Houston area, and will provide a model for local communities across the country in their homeland security preparedness efforts. I urge my colleagues to support my amendment.

AMENDMENT TO H.R. 2555, AS REPORTED
OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of the bill (preceding the short title), insert the following:

SEC. . In addition to the amounts provided elsewhere in this Act, the amount of

$1,000,000 is hereby appropriated to the Secretary of Homeland Security for a grant to the University of Texas Health Science Center and Charity Productions to develop community-based homeland security preparedness initiatives in the Houston area.

Mr. Chairman, I propose this amendment to H.R. 2555, the Department of Homeland Security Appropriations bill and I urge my colleagues to support my amendment.

My amendment seeks a $1,000,000 appropriation for the Houston Bureau of Immigration and Customs Enforcement for homeland security related immigration and customs enforcement measures.

The events of September 11 have illustrated the importance of strict enforcement of immigration laws and regulations. Likewise, the events in the aftermath of September 11, from terrorism profiling to illegal detentions, have illustrated that our immigration efforts related to fighting terrorism must be refined. My amendment allocates funds to the Houston Bureau of Immigration and Customs Enforcement to make the necessary changes to immigration enforcement procedures in regards to fighting terrorism.

Houston was ranked number seven on the list of cities most vulnerable to a terrorist attack by Tom Ridge, the Secretary of the Department of Homeland Security. As such, effective immigration controls are necessary to protect Houston from terrorist attacks. The homeland security/immigration enforcement component of Houston's Bureau of Immigration and Customs Enforcement will promote public safety and local security by deterring illegal migration, preventing immigration-related crimes regarding terrorism, and removing individuals, especially criminals, who are unlawfully present in the Houston area. This mandate is carried out by the Immigration Investigations, Detention and Removal, and Intelligence Departments.

The Immigration Investigation Department, and their staff of field agents, investigates violations of the criminal and administrative provisions of the Immigration and Nationality Act. The Detention and Removal Department is responsible for the supervision, detention, and removal of aliens who are in the Houston area and United States unlawfully or who are found to be deportable or inadmissible. Finally, the Intelligence Department analyzes and implements intelligence received from the National Office, and collects and analyzes immigration intelligence for the Houston area.

The funds will be used to finance existing immigration enforcement programs, and to develop new programs to improve immigration enforcement and reduce the likelihood of terrorist attacks in the Houston area.

Mr. Chairman, if terrorists are unable to breach the borders of the United States their ability to perform terrorist acts will be all but eliminated. I propose my amendment to fund the immigration control efforts in the city of Houston. I urge my colleagues to support my amendment.

AMENDMENT TO H.R. 2555, AS REPORTED
OFFERED BY MS. JACKSON-LEE OF TEXAS

At the end of the bill (preceding the short title), insert the following:

SEC. . In addition to the amounts provided elsewhere in this Act, the amount of $1,000,000 is hereby appropriated to the Secretary of Homeland Security for use by the Houston, Texas, Office of the Bureau of Immigration and Customs Enforcement for homeland security related immigration and customs enforcement in the Houston area.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Kentucky insist upon his point of order?

Mr. ROGERS of Kentucky. I do, Mr. Chairman. I make a point of order against the amendment because it provides an appropriation for an unauthorized program, therefore it violates clause 2 of rule XXI which states, in pertinent part, an appropriation may not be in order as an amendment for an expenditure not previously authorized by law.

Mr. Chairman, the authorization for this program has not been signed into law. The amendment, therefore, violates clause 2 of rule XXI, and I respectfully ask for a ruling.

The CHAIRMAN. Do other Members desire to be heard on the point of order?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I said this earlier today. We are working as best we can, but I would argue that while Rome is burning we are standing on this issue of waiving points of order and, therefore, those who are in great need of resources to protect America and to protect neighborhoods are without those resources.

This amendment was offered in desperation, the need to move forward on funding the opportunities for neighborhoods to secure themselves, that school districts can provide safe places in the community for our neighbors, to educate our neighbors about homeland security, to provide personnel, to provide resources and to provide equipment.

What I would say, Mr. Chairman, is that in light of the point of order, the point has been made, and I hope to work with the authorizing committee as we move through the appropriations process to douse this fire that Rome now is engulfed in and to be able to say to our communities that we are expediting those funds and providing the necessary resources.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Mr. STRICKLAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to discuss the funding of the Federal Emergency Management Agency. The bill before us includes $1.8 billion in disaster assistance for FEMA to use in fiscal year 2004 to assist the many communities across the country that will encounter natural disasters such as ice storms, tornadoes, and forest fires.

Mr. Chairman, I planned to offer an amendment today that would have given FEMA an additional $1.6 billion that it needs just to cover a shortfall in disaster assistance for the 2003 year.

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But the communities that are waiting for this money cannot wait any longer. They cannot wait for the new fiscal year to begin in October when FEMA's coffers will be replenished. The administration has an obligation to ask Congress immediately to provide FEMA with the money it needs to help the communities that were promised assistance by the President when he declared those cities and towns disaster areas. FEMA is running so low on money right now that I understand the agency is only fulfilling a part of its mission under the Stafford Act, parts A and B for debris removal and emergency protection measures.

While I believe it is very important for FEMA to provide funds for these important categories of assistance, relief under categories C through G of the Public Assistance Program are also vitally important. Unfortunately, I have been informed that FEMA has frozen funding for the Public Assistance Programs that help communities rebuild roads and bridges as well as public buildings and utilities. This is unacceptable.

I know that the communities in the 29 counties in Ohio that the President declared disaster areas this winter have already expended money to rebuild the local infrastructure required to get these towns back on their feet. In one of my counties, Monroe County, Ohio, the county engineer has already spent so much money and has failed to be reimbursed for it that he has had to lay off five county employees. Five workers in Monroe County, Ohio, are unemployed tonight because FEMA has not met its obligations.

In southern Ohio, FEMA approved 1,363 projects across 29 counties to be funded following this winter's ice storms that occurred in my district and districts of many other Members throughout the region, both Republican and Democratic Members. Because of FEMA's funding shortfall, however, 293 reconstruction projects remain to be funded. Only 80 percent of approved projects in Ohio have been completed since last winter's ice storm. The State is still waiting for $11 million from FEMA to finish up the remaining 293 projects, but across this country the situation is the same.

The National Emergency Management Association has indicated in a letter to the gentleman from Illinois (Mr. HASTERT) and the gentlewoman from California (Ms. PELOSI) that thousands of applications will go unanswered if supplemental appropriations in the range of $1.6 billion are not passed immediately. More than 35 States and Territories have experienced disasters just this year and thousands of projects in those States will go unfunded unless the administration asks Congress for supplemental appropriations.

I am circulating a letter to Secretary Ridge today, and I ask all of my colleagues to join me. We should ask Secretary Ridge to work with the administration to ensure that a request for supplemental appropriations is made

immediately so that the appropriations committees in the House and Senate can begin work on a bill to provide FEMA with the money the agency needs to continue disaster payments to the States. The States cannot wait for the fiscal year 2004 appropriations process to run its course. They need assistance now, as do the thousands of communities across the country that are waiting to be reimbursed for the important rebuilding projects that they have already begun or for the funds that they need to begin these projects.

Mr. Chairman, I just call this issue to the attention of my colleagues and to this House. This is a critical matter. It needs to be addressed. As I said, I am calling upon Secretary Ridge and I hope all of my colleagues in the House will be willing to sign a letter to the Secretary asking that this request for supplemental funds be coming forthwith.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I suggest to the gentleman that his comments are very well taken and when the administration makes the request, which we do anticipate, for FEMA and other issues, that the Committee on Appropriations will move on it quickly and very likely apply it to the very next appropriations bill that is in the process and ready to be considered by the House.

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

Mr. YOUNG of Florida. I yield to the gentleman from Ohio.

Mr. STRICKLAND. Mr. Chairman, the gentleman has made me very happy. I appreciate the gentleman's concern and personal commitment, and we look forward to getting this done so these communities can get the help they so desperately need.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I also want to talk about FEMA. FEMA is now under the jurisdiction of the Department of Homeland Security. FEMA and the Nuclear Regulatory Commission have a memorandum of understanding that FEMA is in charge of certifying offsite emergency evacuation plans of nuclear power plants. The process is still underway for the Indian Point plant in New York in Westchester County.

I originally was going to put forth an amendment which would prevent Federal funds from being spent by FEMA to certify any offsite emergency evacuation plans for nuclear power plants, but I will not offer this amendment. However, I feel it is critical that I speak about a matter of homeland security to my constituents and the 20 million people living near the Indian Point Nuclear Power Plant in New York.

While I am not against nuclear power, I believe it is in our Nation's vital interest to shut down the Indian Point Nuclear Power Plant in Buchanan, New York, right near my district of Bronx, Westchester, and Rockland Counties. Indian Point is located 35 miles north of midtown Manhattan. The planes that flew into the World Trade Center passed directly over the nuclear power plant and blueprints for American nuclear power plants were found in al Qaeda caves in Afghanistan.

The problems with Indian Point are not new. Indian Point is located in a densely populated area, in fact the most densely populated area in all of the United States. In fact, it is the nuclear power plant that is the closest to any densely populated metropolitan area of the United States, and it happens to be the major metropolitan area of the United States.

Approximately 20 million people are located within the 50-mile emergency planning zone. The road system in the area is woefully inadequate to meet the needs of those people living in the area making an evacuation in the event of an emergency at Indian Point impossible.

No matter what the cause of radioactive release at Indian Point, terrorists or accidental, the result would be the same. The 20 million people living in the emergency planning zone would be in grave danger. Now the emergency evacuation plan that FEMA is now considering is fatally flawed and will not protect the public. An independent investigation of emergency preparedness at the plant conducted by former FEMA Director James Lee Witt and commissioned by Governor Pataki found that ''the current radiological response system and capabilities were not adequate to overcome their combined weight and protect the people from an unacceptable dose of radiation in the event of a release from Indian Point.''

Following the release of the report in early January of this year, Governor Pataki and the four county executives from both parties within the 10-mile emergency planning zone refused to certify the evacuation plans. The report concluded there was no way to improve the existing emergency plan to sufficiently meet the current security threat.

If we are to truly protect the citizens of the tri-State area of New York, New Jersey and Connecticut, we must shut Indian Point down. Again, I want to say I am not anti-nuclear power, but I am against risking the lives of 20 million American people.

FEMA, despite refusing to certify the emergency evacuation plans on February 21, saying it could not provide reasonable assurance that the public would be protected in the event of a radioactive release from the plant, has still not issued a final determination. As a result, Indian Point is still operating despite the fact that no Federal agency is protecting the safety and security of my constituents.

We all know that if built today, Indian Point would never be sited anywhere near the New York Metropolitan Area. Furthermore, September 11 changed the equation. While I may not have been worried about the fact that a nuclear power plant was located in my backyard before September 11, now we all know it is a potential terrorist target. We should not allow a nuclear plant to continue to operate just simply because it exists. FEMA must be forced to take the post-9/11 world into account when it evaluates the offsite emergency evacuation plan.

In that case, I cannot imagine how FEMA could then provide reasonable assurance that the public would be protected should something go wrong at the plant. I know the gentlewoman from New York (Mrs. LOWEY) shares these sentiments. I think it is very important that we understand that the Indian Point Nuclear Power Plant should be shut down.

The CHAIRMAN. Are there further amendments to the bill?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2004''.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentleman from California (Mr. FILNER), and the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

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

AMENDMENT OFFERED BY MR. FILNER

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. FILNER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 274, not voting 11, as follows:

[Roll No. 307]

AYES—149

Ackerman	Cardin	Dingell
Alexander	Cardoza	Doggett
Baca	Carson (IN)	Dooley (CA)
Baird	Case	Doolittle
Ballance	Clay	Engel
Becerra	Clyburn	Eshoo
Berkley	Costello	Etheridge
Berman	Crowley	Evans
Bishop (NY)	Cummings	Farr
Blumenauer	Cunningham	Filner
Boehlert	Davis (CA)	Ford
Boswell	Davis (FL)	Fossella
Boyd	Davis (IL)	Frank (MA)
Brown (OH)	DeFazio	Gonzalez
Brown, Corrine	DeGette	Green (TX)
Capps	Delahunt	Grijalva

Gutierrez
Harman
Hastings (FL)
Hefley
Hinchey
Hinojosa
Hoekstra
Holt
Honda
Hostettler
Houghton
Hunter
Inslee
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kind
Kleczka
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Majette
Maloney
Matsui
McDermott
McGovern
McHugh
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pastor
Paul
Payne
Pelosi
Quinn
Renzi
Reyes
Rodriguez
Roybal-Allard
Rush
Ryan (OH)
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Sherman
Shimkus
Slaughter
Solis
Spratt
Stark
Stenholm
Tancredo
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Walsh
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOES—274

Abercrombie
Aderholt
Akin
Allen
Andrews
Bachus
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Carson (OK)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Culberson
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Everett
Fattah
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hoeffel
Holden
Hooley (OR)
Hoyer
Hulshof
Hyde
Isakson
Israel
Istook
Janklow
Jenkins
John
Johnson (IL)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Lampson
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McInnis
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Wamp
Waters
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (FL)

NOT VOTING—11

Brown-Waite, Ginny
Conyers
Cubin
Gephardt
Hobson
Johnson, Sam
Kilpatrick
Myrick
Skelton
Smith (WA)
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

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Messrs. BROWN of South Carolina, BEAUPREZ, MILLER of Florida, TAYLOR of Mississippi, BRADY of Texas, and ISRAEL, and Mrs. JO ANN DAVIS of Virginia and Ms. MCCARTHY of Missouri changed their vote from ''aye'' to ''no.''

Messrs. TANCREDO, QUINN, JONES of North Carolina, BOEHLERT, HEFLEY, WALSH, EVANS, HOLT, MATSUI, SCHIFF, FOSSELLA, SHIMKUS, RENZI, SHERMAN, and Ms. ESHOO changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MARKEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 278, noes 146, not voting 10, as follows:

[Roll No. 308]

AYES—278

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown, Corrine
Burr
Burton (IN)
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gerlach
Gilchrest
Gonzalez
Goodlatte
Gordon
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastings (FL)
Hayworth
Hefley
Hensarling
Hill
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
King (NY)
Kirk
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickering
Platts
Pomeroy
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rodriguez
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shays
Sherman
Shimkus
Simmons
Simpson
Slaughter
Smith (NJ)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Woolsey
Wu
Wynn

NOES—146

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

Bonilla
Bonner
Boozman
Bradley (NH)
Brown (SC)
Burgess
Burns
Buyer
Calvert
Camp
Cannon
Cantor
Carter
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Culberson
Cunningham
Deal (GA)
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Flake
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Goode
Goss
Granger
Graves
Harris
Hastings (WA)
Hayes
Herger
Hobson
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Johnson (CT)
Johnson, Sam
Keller
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Gary
Musgrave
Myrick
Nethercutt
Neugebauer
Northup
Norwood
Nunes
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pitts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ryun (KS)
Schrock
Sessions
Shaw
Sherwood
Shuster
Smith (MI)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Walsh
Wamp
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—10

Brown-Waite, Ginny
Conyers
Cox
Cubin
Gephardt
Kilpatrick
McDermott
Skelton
Smith (WA)
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 2028

Messrs. ROHRABACHER, LINCOLN DIAZ-BALART of Florida, KIRK, and ROYCE, Mrs. KELLY, Ms. ROS-LEHTINEN, and Ms. HART changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TANCREDO

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

The Clerk read as follows:

Amendment offered by Mr. TANCREDO:

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 provide assistance to any State or local government entity or official that restricts any government entity or official from sending to, or receiving from, the Bureau of Immigration and Customs (assuming the responsibility of the Immigration and Naturalization Service) information regarding an individual's citizenship or immigration status, as prohibited under section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a)).

□ 2030

Mr. TANCREDO. Mr. Chairman, in 1996, the House passed the Illegal Immigration Reform and Immigration Responsibility Act, a provision of which I have restated in this amendment. It simply says that notwithstanding other provisions of Federal, State, or local law, that a Federal, State, or local government entity or official may not prohibit or in any way restrict any government entity or official from sending to or receiving from the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

That is current law. We passed that in 1996.

There was just one tiny problem with it. There are no sanctions, there are no provisions for a penalty if localities, in fact, violate the law. Unfortunately, there are cities in the United States that have disregarded the law. Recently, as a matter of fact, the City of New York rescinded an ordinance that for 20 years had prohibited police officers from not communicating——

Mr. SABO. Mr. Chairman, if the gentleman will yield, I am having trouble following what this amendment does or does not do. It may be of significant relevance to some people.

Mr. TANCREDO. Mr. Chairman, there are several cities in the United States that have chosen to pass legislation, pass laws that, in fact, restrict the ability of their own police forces, in many cases, from sharing information with the now Bureau of Immigration and Customs. That is a violation of the law. It is a violation of the present law. Unfortunately, there are no sanctions for that violation.

All this amendment does is to impose such sanctions by saying that no funds made available in this act and under the provisions of specifically the Immigration and Naturalization Service, which has now become the Bureau of Immigration and Customs, can be forwarded to such a city that has, in fact, violated the law. It is as simple as that. There is nothing else to it. It was the original amendment that I made during the discussion earlier. I have changed the language to reflect the concerns of the Parliamentarian and the reason it was ruled out of order.

That is the entire scope of the amendment, Mr. Chairman.

Mr. SABO. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. If a Member wants to reserve a point of order, it must be done before the amendment is presented.

Mr. SABO. Mr. Chairman, I move to strike the last word.

I want to ask the gentleman a question. What cities would this apply to?

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

Mr. SABO. I yield to the gentleman from Colorado.

Mr. TANCREDO. Well, there are several cities that have passed laws in the nature I have just described, including Los Angeles; Portland, Maine; Houston; Seattle; San Francisco; San Jose; Portland, Oregon; San Diego; and Chicago, to name a few. I think there are others.

Mr. SABO. Houston. And do I understand correctly, because I have tried to read this language. I am sorry, there was so much noise I could not clearly hear what the gentleman was saying.

Under old law, under the INS, there were certain restrictions that we passed that in some fashion applied to the transfer of funds from the INS if a city did certain things; is that what it states?

Mr. TANCREDO. No. Mr. Chairman, if the gentleman will yield, the original law did not apply to the transfer of any funds. It was simply a law making it illegal for any city to restrict the flow of information to or from the Department of the Immigration and Naturalization Service, actually.

Mr. SABO. Mr. Chairman, reclaiming my time, as I read this amendment, this says, none of the funds can be used to provide assistance to any State or local government, entity, or official that does certain things. I do not quite understand the end of this, what they are or are not doing.

My assumption is that now this would apply to FEMA funds, emergency funds; it would apply to airports that are receiving funds under the Transportation Security Act.

Mr. TANCREDO. Mr. Chairman, if the gentleman would yield, no, that is not correct. That was the original concern the gentleman raised. The Parliamentarian at that time ruled that because the original amendment had the words ''Homeland Security,'' that the gentleman was correct in his point of order. I have changed it so that it does not refer to the Department of Homeland Security. It refers specifically to the Bureau of Immigration and Customs, which meets the Parliamentarian's concern; and I have reintroduced the amendment.

Mr. SABO. Mr. Chairman, reclaiming my time, I am sorry, I am having trouble again. But as I read this, none of the funds made available in this act may be used to provide assistance to any State or local government or official that restricts any government entity or official from sending or receiving funds, and I am not sure what agency the gentleman is referring to. But ''none of the funds that are used to provide assistance'' would now include all of the funds flowing to airports from the TSA; and it would apply to FEMA funds, I would assume. It would apply to all of the first responder funds that are in this bill. I would assume it would apply to all the port funds that are in this bill.

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

Mr. SABO. I yield to the gentleman from Colorado.

Mr. TANCREDO. Mr. Chairman, once again, the law that I am amending, the provision of the law that I am addressing here is current law. The provision of the law that we are dealing with is the part of the 1996 act.

All this amendment does is say that no funds can be provided through the Bureau of Immigration and Customs to cities that have violated this law. That is it. We are simply putting teeth into the original law. That is all there is to it. Nothing more. It is as simple as that. And it is through the Bureau of Immigration and Customs. It is not TSA in particular, by the way, the one that the gentleman keeps referring to.

Mr. SABO. Mr. Chairman, I will let someone else maybe try and figure it out. I remain confused. It just seems to go farther to me than what the gentleman has indicated.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to strike the last word in an effort to understand the first few words.

The gentleman from Colorado said to the gentleman from Minnesota that the only funds involved were funds under the Illegal Immigration Reform and Immigrant Responsibility Act, but that is not what it says. The amendment says ''none of the funds made available in this act.'' The reference to the Immigration Responsibility jawbreaker does not come until the bottom. What it says is that if you violate the Illegal Immigration Reform and Immigrant Responsibility Act, then you get no funds under this act.

I know we debated what ''is'' is, but I thought we were pretty clear on what ''this'' is. This is this. This is the act. It says ''none of the funds made available in this act.''

So the question is, in line 2 of the gentleman's amendment, when it says ''none of the funds made available in this act,'' what act is he talking about? And it would appear to be the act that we are now about to enact.

I wanted to ask the question precisely. I would ask the gentleman when it says in line 1, none of the funds made available, and in line 2, this act, in line 2, what do the words ''this act'' refer to?

I yield to the gentleman from Colorado.

Mr. TANCREDO. Mr. Chairman, the amendment goes on to further define it, and it is defined: through the money that is provided to the Bureau of Immigration and Customs.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, no, it does not. The gentleman has not read his own amendment, much less written it.

What this says is, you do not get any funds under this act if you violate the Illegal Immigration Act. It does not say that the funds come under the act; it is a 2-part amendment. It says, first, you do not get any funds under this act. It does not define this act later on; it defines what forfeits money under this act. What causes you to forfeit money under this act is a violation of the Immigration Act. It does not say in here that you lose money under the Immigration Act; it says you lose money under this appropriation if you violate that act.

I will yield again.

Mr. TANCREDO. Mr. Chairman, I must admit I do not believe that the gentleman is really confused about the purpose of the amendment or the words that are printed here. It is, in fact, quite clear.

We have run it around the horn here several times, including with the Parliamentarians. The issue that the gentleman brought up earlier dealing with an expansion of the original law has been dealt with by this new amendment. We are speaking specifically of the Bureau of Immigration and Customs.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I would say to the gentleman, I understand his concern with making clear, and I have heard him say this in other contexts, that English is the official language, and I would urge him to work on that, because English is what it states here, and it says, in English, this is in English now, the only language I speak being a typical American; it says in English, ''none of the funds made available in this act may be used to provide assistance to any State that violates the Illegal Immigration Reform and Immigrant Act.''

So it is very clear. It is this act to which the funds refer. The act that was passed in 1996 triggers the loss of funds under this act. And it seems to me it is a far harsher penalty for the violation and the very fact that the gentleman offers the amendment in one form and then explains it in another is, I think, an indication of its weakness.

□ 2045

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman who is offering this amendment has just said that what he is doing is to apply to existing law with respect to the Immigration Act as a new set of sanctions. And what that means is that none of the funds provided in this bill can go to any locality that is violating that law which means they get no fire grants, they get no port security money, they get no money for their Office of Domestic Preparedness.

It applies to FEMA. How many of you want to have a disaster and find out because of some technicality your State is not eligible for any money? How would you like that if it happened to fire funds, for instance?

So I would say that it is very clear, you are making a very big change in what localities can receive under this bill. Now, State and localities are already being short-changed and should have received far more than they did in the tax bill because of their budget crunch. This will simply add to their woes and will do so inadvertently if they were simply in violation because of a technicality.

It is obvious to me that we are going to have a vote on this bill. As far as I am concerned, we might as well get on with the vote and get out of here.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to speak for 5 minutes. I just want to say what this amendment does, to be blunt, is it says that if any city in the country, and according to the gentleman who read a list of most of the large cities in the country, if they are in violation of a particular provision of the Immigration Act which now has no sanction, this will put a sanction on the city, on all the large cities, and the sanction will be that we will leave them open and naked to the terrorists. That is what it says.

No funds can go to those cities to protect their ports, no funds made available in this act. This act makes available funds for fire, for police, for emergency responses, for protection against terrorists. Now, I know we want to get to a vote but this is about as important an amendment as we have taken up here in a long time. Because whether the people understand it or not, what this amendment will do, and maybe we should do something about non-enforcement about the immigration provision, maybe the Committee on the Judiciary should hold hearings on that, but in fact what this amendment does is say most of the large cities in the country because they are not in compliance with a specific provision of the immigration law will gets no funds to use to protect themselves against the terrorists. No funds for port security, no funds for airport security, no funds for fire and emergency response. That, I submit, makes no sense.

It says to all the citizens in all those large cities, we will hold you hostage so that the terrorists have a free hand at you if your city violates the immigration law. That is not the way to enforce the immigration law. I urge a no vote.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope the public is paying attention to this debate. If we had major cities throughout this country, they are refusing to cooperate with the INS and other people who are trying to protect us from illegal aliens that may be coming in to do terrorist acts, they should not be getting funds from this government. We are trying to ask them to comply to protect our citizens when we are given that type of a description.

Mr. Chairman, I yield to the gentleman from Colorado (Mr. TANCREDO) to give him a chance to answer some of these absurd charges.

Mr. TANCREDO. Mr. Chairman, at least the gentleman from the other side who spoke a minute ago did reflect accurately, I think, the purpose of the amendment. It is to do exactly that. It is to restrict funds to those cities

which have decided to restrict their police or other agencies from sharing information with the Bureau of Immigration and Customs. That is accurate and that is the first time it was described accurately by anybody on the other side. That is exactly what I want to do. Because, Mr. Chairman, there are in fact cities that are violating that law. We passed it in 1996. There has got to be some way for us to impose some sort of sanction or repeal the law with or if it is on the books, let us have in some teeth in that.

Mr. ROHRABACHER. Reclaiming my time, the purpose of this amendment is clear. We are trying to have cooperation throughout the country in a matter that is vital to our national security and the safety of our people. If there are people in those governments, in those cities that are refusing to cooperate with us, refusing to permit those who are responsible for protecting our borders to get assistance, they should not be getting funds. This is how we will encourage them to get involved and to help protect America.

Mr. MENENDEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, three quick points.

Number one is this says none of the funds, no funds will go to any municipality, any State entity, any governmental entity for any homeland security purpose if they have chosen in a totally legitimate way not to give information about someone's citizenship like mine or anyone else's because that is what the gentleman's amendment reads.

This is a coercive action against any State, municipal or other entity to say to that State, municipality or other entity, you must do a series of things, including giving information on a person's citizenship status, like my citizenship status, to the INS. So much for State rights, so much for the local municipalities know best. So much for all I have listened to for the last decade.

This is an unfunded mandate on all of those governmental entities making it an extension of what was the INS. That is what you really want to do.

Lastly, you can keep taking lessons in Spanish, but if this is your Hispanic outreach we want none of it. I urge a no vote.

Mr. BARTLETT of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not a lawyer but in spite of that I think I understand the intent of this amendment. As I understand it, we have a law that has been in effect now for 7 years which is really being violated by a number of cities. The Mayor of San Francisco, for example, told her police not to give information to INS. This is a clear violation of the law.

No evil thing is going to happen to any city or any jurisdiction if they just follow the law. When you do not follow the law, you end up in jail if you are an ordinary citizen. These cities and jurisdictions that are violating this law need to understand that the law needs to be kept.

All this amendment says is if they do not follow the law which has now been in effect for 7 years, they are not going to get any money, and I think that is a very reasonable thing. I do not think there will be any violations of the law because they clearly want the money. And I just do not think there is anything sinister in this. We have a law that is grossly violated. There are no penalties in the law. All this does is put in reasonable penalties. The only penalties you can put in this bill is simply denying them funding under this bill. Nobody will get hurt. All they have to do is follow the law and they will get all the money they should get.

Mr. Chairman, I think this is very simple. It should not be necessary to discuss this any longer. It could not be simpler. They are breaking the law. This puts some teeth in the law. If they continue to break the law, they will not get money. If they do not get money, they will not continue to break the law.

Mr. GUTIERREZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the discussion that we are having tonight is really a discussion about immigration and the immigration policy of our country. And we might want to cloak it in national security but it is what it is.

Our Supreme Court has stated that when you matriculate a child in school, you do not ask the immigration status of that child or that child's parents. That is the Supreme Court decision. That is the law of this land. Children born here in the United States of America, they are citizens by constitutional right. When their parents go to enroll them in school, they must feel free to enroll them in school. Indeed, there are hundreds of thousands of children in our public school systems in this country whose parents do not have a legal status in this country. They do. They are the citizens of this great Nation of ours. We should allow those educational systems to continue to work.

There are police departments, over 400 of them in the Nation, that have made a decision that they want crime reported. That is a very local decision. And we should not be substituting it with a national policy by passing this amendment. I think the police chief of LA, the police chief of New York, the police chief of Chicago and the employees that work under them should be given the respect that this institution should give to them because they are on the front line fighting crime each and every day. And they should make the decisions about how best they can protect the welfare of the citizens of those cities.

We have talked a lot about the localities and making sure that everything works better back home. Well, this is an instance where things are working better back home and we should leave it alone. And we can have a debate all night, but I think clearly what is going to be read in the papers tomorrow and the evaluation that is going to be made of this vote is going to be that those that care to say that immigrants are bad to this country, and those that care to extol the virtues of immigrants are going to take different sides on this debate. But this is really a debate about immigration.

Let me end with this: I think that the President of the United States of America acknowledged that we have to do something about undocumented workers in this country. That is just a fact. There are 8 to 10 million undocumented workers and that is what this is really all about, and this is an attempt to deny them education and to deny their children education and to deny the police to protect them. That is what this is really all about.

The President of the United States sat down with the President of Mexico for one to try to work out some reasonable immigration policy. We should allow them and the Secretaries of State of those countries to bring back, to come to a reasonable solution. Listen, this is not going to get rid of one undocumented worker, as long as in the State of Washington 70 percent of the agricultural workers are undocumented. We know that we eat their apples. We eat the grapes from California. We eat the oranges from Florida. We know who picked those fruits in this Nation. We know who does some of the hardest work in this country each and every day.

So let us have a debate on immigration. Let us have a debate on immigration. Let us have a broad debate on immigration, and let us try to figure out how we streamline new immigrants to this country as we integrate those that are working hard, paying taxes and following the law of this land. Let us not have a debate here tonight where one person can go and put a claim, I got the immigrants today. I feel so proud.

America has a proud tradition in this country of respecting the work and the wealth of the contributions of immigrants, whether they be Italian or Irish or Polish. That is what has made this Nation so great.

Let us not belittle those contributions here with this debate tonight. Let us vote no on this amendment.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will just say the following: The topic of immigration is a very much sensitive topic and it is emotional. It is perceived with a lot of emotion in the immigrant communities in this country. And so what I would ask is that we have the opportunity to review this amendment. I asked my friend, the gentleman from Colorado (Mr. TANCREDO) for a copy, and he said that the only copy is on the desk, so I have not had an opportunity to even read this amendment.

□ 2100

What I do know is the following, that this is a sensitive issue; that it requires that this House deliberate on it, and if it is an amendment that we have not even had an opportunity to read, then my suggestion would be to my friend that he give an opportunity to this House, through the regular process, for this to be studied; and if he will not, then I will vote against this amendment. I say so because this is a sensitive issue. This is an issue of extraordinary sensitivity to the immigrant communities in this country; and so I ask both sides of the aisle, if the amendment is not withdrawn, to vote it down.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

I hope that we can listen to my good friend from Florida; and for those who are still trying to struggle with their own conscience, let me just simply say that this is a sensitive issue, but what it does capture is our fear of politics, and I just want my colleagues to think of a local hamlet or rural area that inadvertently, inadvertently does not provide information. They too will lose their fund.

The other aspect of this amendment that the gentleman from Colorado (Mr. TANCREDO) has not spoken to is that they will make the teachers, doctors, nurses and others hunting down those they believe to be violators of the immigration laws and they will begin to approach not those who may be undocumented, but they will approach citizens who are, in fact, documented. It will be a politics of fear because our local communities will be fearful of losing the dollars that they are going to get.

Mr. Chairman, the gentleman from Florida has made a very good proposition. This House, the committees have not had an opportunity to review this amendment, nor have they had a full opportunity to review how we wish to go forward on immigration policy.

My question to the gentleman from Colorado (Mr. TANCREDO) would be, is the administration in support of this amendment? Is President Bush in support of this amendment? Is this an administration proposition? If it is, then we need to have a policy statement, a letter from the administration suggesting that this is an amendment that they support; and frankly, I believe, Mr. Chairman, that this is an amendment that will take us down that very thorny path of seeking out citizens who happen to have a foreign name, wherever they might be, because our cities and local governments, rural areas will be fearful that the long hand of the government will snatch their money away from them.

This is a bad amendment, and I hope that it goes down the tube; but I hope the gentleman will withdraw the amendment or vote it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. TANCREDO).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 102, noes 322, not voting 10, as follows:

[Roll No. 309]

AYES—102

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Blackburn
Boozman
Brady (TX)
Burns
Burton (IN)
Buyer
Cantor
Carter
Chabot
Coble
Collins
Cox
Crane
Culberson
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Doolittle
Duncan
Emerson
Everett
Feeney
Flake
Forbes
Franks (AZ)
Gallegly
Garrett (NJ)
Gingrey
Goode
Goodlatte
Graves
Gutknecht
Hayes
Hayworth
Hefley
Herger
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Istook
Jenkins
Johnson, Sam
Jones (NC)
King (IA)
Kingston
Lucas (OK)
Manzullo
McInnis
Mica
Miller (FL)
Miller, Gary
Musgrave
Myrick
Neugebauer
Norwood
Otter
Paul
Pence
Peterson (PA)
Petri
Pitts
Platts
Putnam
Ramstad
Rehberg
Rogers (AL)
Rogers (KY)
Rohrabacher
Royce
Ryun (KS)
Schrock
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Smith (MI)
Smith (TX)
Stearns
Sullivan
Tancredo
Taylor (NC)
Tiahrt
Toomey
Vitter
Wamp
Weldon (FL)
Whitfield
Wicker
Wilson (SC)

NOES—322

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Ballenger
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burr
Calvert
Camp
Cannon
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chocola
Clay
Clyburn
Cole
Cooper
Costello
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hensarling
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Pickering
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shaw
Sherman
Sherwood
Simmons
Simpson
Slaughter
Smith (NJ)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weller
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—10

Brown-Waite, Ginny
Conyers
Cubin
Gephardt
John
Skelton
Smith (WA)
Udall (CO)
Weldon (PA)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The CHAIRMAN (during the vote). There 2 minutes remaining in this vote.

□ 2120

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

Mr. GARY G. MILLER of California changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. UDALL of Colorado. Mr. Chairman, I was inadvertently detained and did not arrive in the Chamber in time to vote on rollcall number 309, the Tancredo amendment to H.R. 2555, the Homeland Security appropriations bill. Had I been present, I would have voted ''no.''

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we wrap up debate on this bill, this historic bill, the very

first appropriations bill that this Congress has taken up to fund the new Department of Homeland Security, truly a historic day, I want to say just briefly how much I appreciate all of the help that the members of the subcommittee gave to us as we crafted this bill in a bipartisan way, and for all of the Members who have conducted the debate today, I think, in a very high-minded way.

I want to especially thank my colleague, my ranking member, the gentleman from Minnesota (Mr. SABO), who has been of immense help as we constructed the bill, and all the members of the subcommittee and of the full committee.

I want to especially single out the vice chairman of the subcommittee, the full committee chairman, the gentleman from Florida (Mr. YOUNG), who was helpful in the drafting of this bill, but also, most importantly, had the courage back in the wintertime to have the Subcommittee on Homeland Security created in the full committee. It was courageous. The other body followed suit. Otherwise, this Department would be appropriated by seven or eight different subcommittees on the House and Senate side. So I want to thank Chairman YOUNG for doing a great job and having the courage to be a leader.

And lastly, Mr. Chairman, I want to thank the very excellent staff that we have had the good fortune to work with for only 3½ months since this subcommittee has existed. Just a short time, but this staff pulled together a bill from whole cloth and nurtured it through the process, and we owe a lot to this excellent staff on both sides of the aisle who put this very first bill together.

Mr. Chairman, I thank my colleagues for allowing me to thank these people for doing a great job.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2555) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes, pursuant to House Resolution 293, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 and 9 of rule XX, this 15-minute vote on passage will be followed by a 5-minute vote on suspending the rules and passing H.R. 1416.

The vote was taken by electronic device, and there were—yeas 425, nays 2, not voting 7, as follows:

[Roll No. 310]

YEAS—425

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—2

Flake
Paul

NOT VOTING—7

Brown-Waite, Ginny
Conyers
Cubin
Gephardt
Skelton
Smith (WA)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2141

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOMELAND SECURITY TECHNICAL CORRECTIONS ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1416, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr.

COX) that the House suspend the rules and pass the bill, H.R. 1416, 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 415, nays 0, not voting 19, as follows:

[Roll No. 311]

YEAS—415

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—19

Brown-Waite, Ginny
Calvert
Clay
Conyers
Cubin
Dooley (CA)
Gephardt
Hill
Hinojosa
Johnson, Sam
Jones (NC)
Matsui
Sanders
Skelton
Smith (MI)
Smith (WA)
Stark
Taylor (NC)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2148

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2417, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 108–176) on the resolution (H. Res. 295) providing for consideration of the bill (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, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). 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 New York (Mr. HINCHEY) is recognized for 5 minutes.

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

EXCHANGE OF SPECIAL ORDER TIME

Mr. BROWN of Ohio. Mr. Speaker, I ask unanimous consent to take the 5 minutes of the gentleman from New York (Mr. HINCHEY).

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

There was no objection.

PRESCRIPTION DRUG COSTS

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

Mr. BROWN of Ohio. Mr. Speaker, 2003 promises to be the third straight year of double-digit premium increases in health insurance. Guess what else is increasing at double-digit rates? Drug industry profits. In 2001 while the rest of the Nation was reeling from a plummeting economy, the drug industry boosted their profits by 33 percent. In 2002, profits registered by the 10 drug companies on the Fortune 500 list were equal to more than half the $70 billion in profits netted by the entire roster of Fortune 500 companies. The top 10 drug companies raked in profits 5½ times greater than the median for all industries. Over the last 20 years, the drug industry has been the most profitable industry in America.

Return on investment, return on sales, return on equity, any way you measure it for the last 20 years, the drug industry has been the most profitable industry in America. And the drug industry has paid lower tax rates than any other industry in America. While the drug industry tells lawmakers that any limits on their profits will crimp innovation, they rarely acknowledge they spend more money on marketing their drugs than they do in research and development. They seldom mention, as I said, they pay the lowest tax rates of any industry in America; and

they seldom mention that the government and foundations do literally half of all their research and development that leads to new drugs. Families USA found that in 2001 the nine drug companies selling the most drugs to American seniors spent more money, in fact spent more than twice as much money on marketing and on administration than they did on research and development.

The Republican majority would like us to accept a Medicare drug plan that is administered by profit-driven insurance companies, profit-driven HMOs who will negotiate with profit-driven drug companies on behalf of our most vulnerable populations. It is not hard to see who is going to lose out in those negotiations, Mr. Speaker.

This Republican plan will not guarantee seniors access to fair-priced drugs, it will not guarantee seniors access to health care, but you can bet the Republican plan will guarantee sustained double-digit profit margins for the Nation's drug companies. Responding to the public outrage at astronomical drug prices, the brand-name drug industry says not to worry, prescription drugs actually save money by reducing health care costs. That is true if prescription drugs were more reasonably priced, but under the Republican bill they will not be. There is no doubt prescription medicines reduce disability and can prevent illnesses which helps alleviate the need for other health care services. Unfortunately, though, Mr. Speaker, prescription drugs are priced so outrageously high that the costs associated with their increased use far outstrips any offsetting savings that might accrue. They are so high priced that millions of seniors and other Americans simply cannot afford them. The choice too often is between heat and their prescription drugs in winter. The choice too often is between food and prescription drugs. Even a miracle cure is worthless if people who need it cannot afford it.

Skyrocketing drug costs are jeopardizing employer-sponsored health insurance, undercutting the financial security of seniors and absorbing an enormous and increasing share of limited Federal and State tax revenues devoted to health care. Something has to give.

The reason the drug industry has spent millions of dollars lobbying for the Republican Medicare bill is because the industry knows that scattering seniors into multiple private plans undercuts the purchasing power that Medicare would provide. They know that squashing efforts to consolidate the purchasing power put 40 million seniors into one purchasing pool to save money. They know that mixing them up into smaller numbers in a multitude of plans enables the drug companies to sustain outrageous drug prices. That is why the drug companies lobbied so hard for the Republican prescription drug plan.

The government negotiates price on everything else. When the Architect of the Capitol bought the carpet for this room, he did not take the manufacturer's word that a fair price would impair his fiber research. When the National Park Service buys park rangers' uniforms, he does not take the first bid that comes in.

But not with prescription drugs. On prescription drugs, Republicans insist that the government take whatever price the drugmakers want to charge. If you want to talk about an incentive, that is an incentive. It is an incentive to turn the screws on American businesses who cannot afford the price of prescription drugs in their health plans, to turn the screws on American families and seniors who cannot afford the price of prescription drugs, and to turn the screws on government because taxpayers cannot afford the outrageous cost of these prescription drugs.

I do not lose sleep, Mr. Speaker, over sustaining double-digit profit margins for the drug industry. I am concerned, however, at the millions of Americans who are shouldering the burden for these double-digit profit margins at the expense of their health. The average Medicare beneficiary earns $14,000 a year. Many of the prescription drugs seniors use cost about $100 per prescription per month. Mr. Speaker, the Republican plan written by the drug companies does not make sense for American seniors. I ask my colleagues to vote for the Dingell-Rangel substitute which will provide drug coverage and will ratchet down prices so Americans no longer pay higher prices than any other country in the world for prescription drugs that are manufactured right here in the United States.

□ 2200

The SPEAKER pro tempore (Mr. GARRETT). 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 Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. MORAN of Kansas. Mr. Speaker, I ask unanimous consent to utilize the time of the gentleman from Indiana (Mr. BURTON).

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

There was no objection.

TRIBUTE TO THE KANSAS WHEAT HARVEST

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

Mr. MORAN of Kansas. Mr. Speaker, in Kansas today the combines and harvest crews are rolling through day 13 of the 2003 wheat harvest. Farm trucks and semi-trailers crowd the highways and gravel roads bringing Kansas's most celebrated crop from the fields to the grain bins and local elevators.

After a few days of rain, harvest is now in full throttle in the southern half of the largest wheat producing State. And with just under 20 percent of the harvest in, there is some good news to report. The yields are good and the landscape is of golden waves of grain, a welcomed change from the scenery of a year ago.

Two thousand and two was one of the worst years that farmers in Kansas ever faced. Because of severe drought wheat yields were poor, many families had net incomes of zero and farm equities plunged, the trickle down effect of the hard hit causing cash-flow problems for rural businesses and closing down stores on main streets in many small towns across our State.

But after consecutive years of natural disaster, Kansans can finally be cautiously optimistic this year. The harvest reports from producers are more positive and even a little upbeat this year, and the cause for that improvement can best be described in one word, rain. Thanks to the spring rains, many producers are getting their first wheat crop in 3 to 4 years. By the time this harvest is completed the first part of July almost 10 million acres of wheat will have been cut, the largest acreage harvested in our State in the last 5 years.

Behind the numbers of wheat harvest, bushels per acre, test weights, yields, are stories of real people who make farming their way of life. Harvest is a family affair. Although the methods of harvest are constantly changing thanks to new technology, the work ethic passed down from generation to generation still exists. Fathers, sons, grandfathers, brothers work side by side from dawn to sunset. A story in yesterday's Salina Journal paints the typical picture in a profile of the Anderson family from McPherson County. Wheat producer Tim Anderson is on the combine harvesting a field near Roxbury, Kansas. His father, Bill Anderson, is on another combine, and the third is manned by Tim's son Scott, age 17. Younger son Shawn is in a tractor nearby pulling the grain cart. Meanwhile Tim's wife, Renee, arrives in the field in a farm truck bringing lunch to the family. Harvest is a team effort.

In addition to being a family affair, the annual wheat harvest is a trademark claimed by our entire State, and we have been growing wheat there in Kansas since before Kansas became known as ''The Wheat State.'' Kansas's farmers produce more wheat than any other State, 20 percent of the Nation's total production, and Kansas ranks first in our Nation in flour milling, wheat gluten production and wheat stored. Kansas really is the ''Breadbasket of the World.''

Wheat harvest is a tradition, a legacy, and our livelihood, and as goes the wheat crop, so goes the Kansas economy. A good wheat harvest is the leading contributor to our State's revenue, about $1 billion annually.

So Mr. Speaker, as the combines roll northward and the harvest continues, it is good for all of us to take a few moments to recognize the lessons of the wheat field, to remember that there is satisfaction in making the right decisions and putting in the hard work to produce a bumper crop but ultimately mother nature has the final say in whether or not the yield is bountiful. That cautious optimism is the hallmark of every farmer who puts the seed in the ground hoping for a good harvest months later, and there are few things in life more rewarding than working with family side by side to complete the job of the wheat harvest. Wheat harvest is important to the Kansas economy but even more important as a way of life.

Kansans have been saying their prayers throughout the years of drought for rain and snowfall. Those prayers have been answered. Now we pray for abundant crops, good prices, and a safe harvest. Once again the old hymn reminds us: God our Maker doth provide.

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

(Ms. CORRINE BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

PORT SECURITY

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

Ms. MILLENDER-MCDONALD. Mr. Speaker, I rise tonight to talk about port security and the critical importance that increased funding for port security would have for my region of Long Beach and Los Angeles and to the American people.

Mr. Speaker, last night I appeared before the Committee on Rules about an amendment that would provide funding for container security and port security. Regrettably, this amendment was not made in order. If my amendment had been made in order, this germane amendment would designate $20 million to establish a secure container and safe mobility pilot program. Further, this project would be carried out at the Nation's port with the highest volume of container traffic. This program would work in conjunction with existing city and local infrastructure in developing fast, efficient, effective and secure ways to move containers through the port complex and through surrounding cities and communities throughout the Nation.

We recognize that not all containers that come into our country are inspected. We must provide resources to port security initiatives that help us utilize our existing infrastructure while making sure that our communities that receive these containers are protected. A program like this will set the standard for similar communities around the Nation that provide the infrastructure that move our Nation's goods out of the Nation and keep our economy moving forward.

Long Beach and Los Angeles, our port complex, the largest in the country and the third largest in the world, receive 45 percent of the Nation's containers. These ports are a vital economic link to the rest of the Nation. Eighty percent of the goods that come into the country from the Pacific rim comes into our ports. If these ports in the communities that support this supply chain of goods movement were ever threatened or damaged, our economy would be stalled.

In October of 2002 our Nation witnessed firsthand what happened to our economy when our ports are not moving goods out of the country. The lockout that occurred at the western ports served as a grim reminder of just how interconnected and how dependent we are on one another in moving our Nation's goods. The lockout that occurred at the western ports cost the U.S. economy an estimated $1 billion a day.

We must provide support and precious resources to our ports to ensure that they are secure. In addition, we must provide security to the communities that are connected and support our ports. We cannot view port security as merely inside the gates. Ports are a part of our communities. The resources that we provide for port security also provide security for our Nation's communities.

Mr. Speaker, I would have offered this amendment, and I offer this statement for the RECORD.

THE RURAL VETERANS ACCESS TO CARE ACT

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

Mr. OSBORNE. Mr. Speaker, I represent a rural area, 64,000 square miles, 68 counties, and it goes without saying it is a long ways between towns. In an area like this, veterans ofttimes have a hard time accessing healthcare. Let me give a real example. Let us say a veteran lives in Ogalala, Nebraska, which is in the western part of the State but is by no means the most remote part of the State, and let us say that individual has to go to Omaha, Nebraska to a VA hospital which is 350 miles away, and he may just be going for a routine blood test, diabetes checkup, blood pressure checkup, or any type of simple checkup of that nature. Ofttimes when he makes an appointment, the appointment will not be fulfilled for 6 months. So he waits for 6 months, and that veteran at that time then gets up at 4 a.m. and leaves for North Platte, Nebraska, which is 50 miles away. After he gets to North Platte, he boards a van to go to Grand Island, Nebraska, where he spends the night and that is another 140 miles, and early the next day he gets on another van, goes to the VA hospital in Omaha, a 3-hour trip. He completes the test that day and then he returns to Grand Island for the night, and the next day he takes the van from Grand Island to North Platte, another 140 miles, and then he gets a ride to Ogalala, another 50 miles. So he has waited 6 months, he has had a 3-day trip to go 660 miles for routine tests. This is ridiculous.

Had the veteran driven his own car or had somebody drive his own car, he still would have had an 11-hour trip and it would have taken at least 2 days, if not 3.

Let me give an urban example. Let us say that someone, a veteran with the same health problem lived in Richmond, Virginia. It would be the same as if that individual from Richmond, Virginia drove to New York City and back for basic medical care. Those same tests that were performed in Omaha, Nebraska at the VA hospital could have been done at the local hospital in a matter of three or four blocks away or maybe a couple of minutes away from that veteran, and sometimes because of their age some of our World War II veterans are having a hard time traveling today, maybe a disability, maybe the weather, a blizzard or a snowstorm, and the veteran simply does not get the healthcare at all. He does not even try because he is not able to make the trip.

So that is why I have introduced H.R. 2973, the Rural Veterans Access to Care Act. H.R. 2973 would allow the VA to contract for care with local medical facilities. The only stipulation is that the veteran must travel at least 60 miles or more for the care. Some people say that only happens in Montana or North Dakota or South Dakota or Nebraska. And it is true. Those States would be hard hit. But there probably are hardly any States in the Union with the exception of maybe Rhode Island or Connecticut or someplace like that where we do not have at least some veterans who are somewhat isolated from VA hospitals and are having to go great lengths to get their medical care. H.R. 2973 would set aside 5 percent of the VA funding to contract with local medical facilities for veterans living in rural areas. By contracting with local clinics in remote areas, number one, medical care would be prompt, it would not be a four to five to six-month wait. Number two, veterans who have difficulty traveling would be served. They would not have to just simply give up on getting medical care. Number three, there will be no additional cost and might even cost

less. And number four, the local hospital or clinic, which is often struggling to survive in a small town, would receive added funds.

So I think this bill makes sense. I would urge my colleagues to support it.

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 Extensions of Remarks.)

MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise tonight to address the most important issue of Medicare reform. As a former nurse, I have spent much of my career working to ensure that our Nation's healthcare system provides a wide range of affordable services, and we as Members of Congress must be fiscally responsible when it comes to making decisions regarding our budget. Fiscal responsibility entails looking at the whole picture and seeing the effect it may have on all individuals in society. I will continue to work hard to ensure that those who have given to the system will receive their just rewards. This includes continuing to help those who would like to help themselves by providing a means for them to do just that. I will continue to favor programs such as welfare and Medicare that have this objective in mind, and I will oppose any legislation that provides tax cuts which do not benefit all of society.

In the year 2000 at my request the House Committee on Government Reform conducted research on prescription drug costs in the Dallas-Fortworth Metroplex. The results of this study were astounding. Seniors in my congressional district paid 122 percent more for prescription drugs than do members of managed care plans and Federal employees. Last Congress I was very disappointed when the House passed the Medicare Prescription Drug Benefit bill, H.R. 4954. This bill passed closely along party lines, did not entitle seniors to any particular drug benefit plan. Instead, this standard benefit is merely a suggestion for what private plans might offer. Unfortunately, we are poised to repeat history if we pass this Republican Medicare bill. I oppose the Republican Medicare bill because it does not ensure that citizens and people with disabilities get the long overdue Medicare prescription drug benefit that is available and affordable to all.

There are two essential changes that are needed for the Republican Medicare bill to become palatable. First, the bill must be amended to include a uniform, defined prescription drug benefit that is universally available through Medicare. Second, the bill must reject proposals to privatize the program. These two changes are critical. The Republican Medicare bill must provide a guaranteed drug benefit managed by Medicare. Beneficiaries in traditional Medicare cannot be disadvantaged should private plans be allowed to compete to provide Medicare benefits. Our proposed Democratic amendment would have added a stable, defined drug benefit in Medicare.

It is time that we acknowledge that there is an America that is waiting for relief. It is also time for us to acknowledge that the people deserve a little attention rather than the corporations and pharmaceutical companies getting all of the breaks.

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

(Mr. SIMMONS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MICHIGAN AFFIRMATIVE ACTION CASES

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

Mr. KING of Iowa. Mr. Speaker, I would like to address the House and the United States of America with regard to the decision rendered by the Supreme Court that came down I believe it was yesterday in the case of Grutter v. Bollinger and Gratz v. Bollinger, University of Michigan undergraduate school and the University of Michigan School of Law. I went over to the Supreme Court. I believe that case was heard on April 19, and I was the only member of my conference to be there in that Supreme Court hearing room that day.

This Constitution means something to me. I have dealt with affirmative action. I am a contractor by trade. I have done so for 28 years. I have hired people of all different kinds of backgrounds and talents and ethnicities, and I have also done Federal contracts where I have run into a situation where there will be a certain situation quota or a goal assigned to me, and sometimes that is not available and we have had to drop contracts because we were not able to meet that requirement. So I paid real attention to this, and I think it is important that everyone have equal opportunity. That is what Martin Luther King asked for. That is what our Constitution calls for, and that is what we should provide by the laws that we promote here in this Congress and by the Supreme Court that meets over across the way.

□ 2215

I thought I went over there to hear a constitutional argument. In my naivete I expected that would be the bulk of the discussion that took place that day in that little over-2 hours of discussion. In fact, I heard very little constitutional argument. About two-thirds to three-quarters of the comments and questions that were directed by the Justices had to do with the result, not the constitutionality, not the language, the definition, or the intent of Congress; simply the result of a decision that they might make.

And an interesting thing: as I tried to find my way into the Supreme Court room, it was packed out front, and it looked like they let out the D.C. schools for the day to go demonstrate at the U.S. Supreme Court. They were carrying signs that said: ''Support equality, defend affirmative action.''

Well, Mr. Speaker, I did not take a logic class, but those two things do not connect for me, and I do not think they connect for most Americans. We are either going to have equality or we are not going to have equality; but a preferential treatment program, by definition, is contrary to equality. And that is what affirmative action is, and that is what the case was there to be heard for.

So I went to the oral arguments in those cases, and I am profoundly disappointed that the Supreme Court did not outlaw racial preferences in their decision in the Grutter and the Gratz cases, and in the lack of focus on constitutional arguments.

As I left there, and I talked to attorneys about this, me not being one, and I told them that I was astonished that the Justices in the Supreme Court did not focus their arguments on the Constitution. They told me they were focusing their questions and their comments on Justice O'Connor, because well, all right, that is another issue then, and she has written the majority opinion. Apparently, they were focusing on her for the right reason. Apparently, she was not evaluating the Constitution, or we would have had an entirely different majority decision, certainly by the one that wrote the majority.

But I did hear one reference to the Constitution. I actually heard more than one, but the one that stands out in my mind was Justice Scalia's reference, when he asked the University of Michigan attorney, he said, If this court rules against you and it results in one minority in the School of Law, 100 percent minorities are no minorities, what possible constitutional difference can that make? And my colleagues can check the record, Mr. Speaker. I do not think they will see that there is a logical answer to that. So we ended up with the decision that we got.

Now, the Court got it right when they struck down the point system by the University of Michigan's undergraduate programs. University admissions should be color blind. A student's race should never matter more than a 4.0, a perfect SAT score, or a flawless essay.

I am not a lawyer, but it does not take a lawyer to know that the Supreme Court missed the mark when they upheld the program at the University of Michigan Law School that relies on race and the law school admissions decision-making process. The race-based admissions policy violates Martin Luther King's call for a color-blind society. Admission should be determined based on criteria that reward excellence, not race. It is paternalistic for minority students to be given preferential treatment. All students should have the same opportunities to succeed, regardless of color.

I agree with Justice Thomas when he said of the majority opinion in the Grutter case, ''For the immediate future, however, the majority has placed its imprimatur on a practice that can only weaken the principle of equality embodied in the Declaration of Independence and the Equal Protection Clause.'' He then quoted the landmark case of Plessy v. Ferguson: ''Our Constitution is color-blind, and neither knows nor tolerates classes among citizens.''

Justice Thomas hit the nail on the head when he wrote of the lack of principle in the majority opinion: ''I can only presume that the majority's failure to justify its decision by reference to any principle arises from the absence of any such principle.'' Justice Thomas, I agree. And I agree that the only principle in the majority opinion in Grutter was the principle of expediency to allow racial preferences. Certainly, constitutional principles were not involved. The Fourteenth amendment prohibits such race-based admissions decisions. Our Constitution is color-blind. Obviously, a majority of the Supreme Court is not.

SUPPORT THE FREE MARKET PRESCRIPTION DRUG BILL

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

Mr. EMANUEL. Mr. Speaker, we are about to take up the prescription drug bill, and a group of Democrats and Republicans have come together on an amendment to the legislation that is the free market prescription drug bill. It has three components.

One is to bring generics to market so we can have competition between generics and name-brand drugs and force the prices down and make medications more affordable to more and more, not only of our elderly, but all consumers, and also help private businesses on their health care costs through their insurance policy.

The second provision allows consumers and also the government and also the private sector to buy prescription drugs in anywhere of the 27 countries, be they Great Britain, France, Germany, Canada, Italy, England. They allow it in Holland, where you can get competitive prices. Because today, in Germany, many of the name-brand drugs are 30, 40, 50 percent cheaper than they are here. And we can bring competition and the market forces to bear on the prices to make medications more affordable for our American consumers.

The third provision is that the taxpayers have been funding research through the National Institutes of Health. The truth is the NIH is one of the largest venture funds in the world. Yet American taxpayers get no return on their investment through the NIH. All the cancer drugs, all the AIDS drugs, a great deal of the blood thinner drugs and medications, and arthritis drugs were funded through government research.

In the private sector, many people who invest look for a 30 percent return on their investment. The taxpayer, through the government, gets no return on their investment. This legislation would call for a 10 percent return to the taxpayers for that research for all of the new medications the taxpayers have funded, and we could make the NIH and the FDA, Food and Drug Administration, self-funded in the future. In my view it would keep America in the forefront of new medication. We could bring medications down in price, and we could get real competition and make medications affordable.

What is really missing in this whole debate, in my view, is bringing the free market to play and to bear, and it would be successful. Unfortunately, the American taxpayer has been funding all the research and the only benefit we have gotten is that we pay the highest price. As we would say in Chicago, ''such a deal.''

Now, the truth is, in England, France, Canada, Germany, Italy, American-made pharmaceutical drugs are 30 to 40 to 50 percent cheaper in those countries than they are here at home. The American consumer, the American senior citizen, is the profit guinea pig for the pharmaceutical companies. For too long they have been gouging our seniors, using our elderly to make up their profit margins, while in Canada, in Germany, in France and in England they are getting cheaper prices. So it has a bipartisan approach around a commonsense set of principles to make medications, the drugs people need for their children, for themselves, or for their grandparents, more affordable, more accessible.

Now, why would it be that if we are about to go spend $400 billion over 10 years, why would we deny the government the ability, through the taxpayers, the ability to stretch that $400 billion to get more out of it? Nowhere else in the private sector would we do that. We are denying ourselves the right to use competition to bring down the price, to make medications more affordable to all of the folks, be they elderly or kids or families, so the family budget, the business budget, and the government's budget go cheaper.

I have confidence in the free market. I wish some of my colleagues here on the other side of the aisle would have as much confidence as we have in the free market. I do not know what they are all scared of. We would have generics competing against name-brand drugs, and we could pick based on price and quality. You would be able to buy drugs at the local pharmacy, or if you look on the Internet and find the same drug cheaper in Germany, you buy it there. If globalization is such a great thing, why do we not allow it to work for everybody, not just for a select few? Why let Germany get the advantages of cheaper medications made here in America by American companies funded by American taxpayers?

On the last account, allow our taxpayers to reap the benefits of their tax-funded research.

Mr. Speaker, in the private sector world, if you get less than 30 percent on your return, you know what you are called? Dumb money. I wonder how long we are going to treat the taxpayers as dumb money around here. This is taxpayer-funded research. Every drug related to cancer has been funded in part by taxpayer money; and the only thing we are guaranteed besides the medications, which we are not guaranteed, is to pay the highest price in the world for that medication. Yet people in Germany and England pay half that price.

I have full confidence, along with my colleagues on the other side and folks on this side of the aisle. We have come together on a common set of principles with a common set of values to ensure affordability and return for taxpayer rights on their investment.

I know the pharmaceutical companies do not want this bill because it would finally bring some real sensible principles like the free market to bear on the pharmaceutical industry and on the pricing of medication.

So I hope that we have the opportunity to offer this amendment and everybody can either start not just talking the talk, but start walking the walk when it comes to their views in espousing the free market.

REPUBLICAN PARTY PRINCIPLES OF LIMITED GOVERNMENT, ECONOMIC FREEDOM, AND INDIVIDUAL RESPONSIBILITY SHOULD PREVAIL

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

Mr. FLAKE. Mr. Speaker, I rise today out of some reluctance to take a position at variance with the leadership of my party. I do so, however, because I believe that the direction we are headed with this bill on prescription drugs is inconsistent with the Republican Party's principles of limited government, economic freedom, and individual responsibility.

I hope that my opposition to this bill does not imply my support for the

Democratic alternative. While we Republicans are surely headed off the fiscal cliff, the Democrats' plan would only get us there much faster.

This legislation is a prime example of the question debated in high school civics classes all over the country: Are we as Members of Congress sent to Washington to vote the wishes of our constituents or the demands of our conscience?

We have all read the polls. It is clear that seniors want a prescription drug benefit as part of a traditional Medicare. Further, seniors seem skittish when it comes to substantive Medicare reform. These findings are often cited by supporters of the legislation. Rarely cited, but certainly understood, is the fact that seniors vote in numbers disproportionate to their size of the electorate.

But as sitting Members of Congress, we are also aware that adding a new entitlement of this size is wholly unsustainable. Even without this new entitlement, Medicare will go bankrupt within the next couple of decades. The $400 billion, 10-year estimate for this add-on will almost certainly spiral out of control, just as Medicare's costs have ballooned far beyond original estimates.

So what are we to do? Do we vote as the polls tell us we should vote? After all, if it is what our constituents want, can we not simply vote ''aye'' and wash our hands of the matter?

We are not the first Congress to face such questions. More than 200 years ago, the delegates to the Constitutional Convention had a similar dilemma. Many in this new country wanted a governmental structure similar to the one that they were used to, rather than what was envisioned by the Founding Fathers.

George Washington's words to the Constitutional Convention should instruct us today: ''If, to please the people we offer what we ourselves disprove, how can we afterwards defend our work?''

George Washington understood what leadership is all about. It is not about riding the wave of public opinion, but in changing its course. It would have certainly been more comfortable for the Founding Fathers to go along with what they perceived to be the will of the people, rather than to persuade them that there was a better way. Many generations later, we are grateful for their leadership.

So here we are today. As Members of Congress, we know that adding a prescription drug benefit without reforming Medicare will only hasten its bankruptcy. By our own estimates, this plan will add about $7.8 trillion to Medicare's unfunded liability. Somehow, I doubt that generations to come who are saddled with this debt will be hailing us as leaders.

Knowing all of this, can we defend our work? No, Mr. Speaker, we simply cannot. I urge my colleagues to join me in voting ''no.''

MEDICARE PRESCRIPTION DRUG BENEFIT

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

Mr. MCDERMOTT. Mr. Speaker, the ''Rubber Stamp Congress'' is about to go back in session. The President sent the word down from the White House: he wants a bill. We have not seen the bill. It has been put together in two different committees. We do not know what the Committee on Rules is going to put out here, but I can tell my colleagues two things about it. It is very clear from what went on in the Committee on Energy and Commerce and what went on in the Committee on Ways and Means that the bill that will be before us in the next couple of days is not going to satisfy what senior citizens really want.

The senior citizens want no privatization. They do not want Medicare to become totally a private insurance operation. They like the program run by the government. It has worked very well for many years; not perfect, but it has worked very well, and the idea that we are going to have a drug benefit and we are going to say, here is some money, we are putting it on the table here, and the drug companies are going to run in or the insurance companies are going to run in and figure out how to give a benefit is simply nonsense, and people know it.

□ 2230

They do not trust insurance companies. They have had the last couple of years dealing with the insurance companies around HMOs and they said, Why do we need more of that? How will we feel more safe if we know the insurance companies can come in one day and out the next and back in another day and another and out, in and out? We will not have any benefit.

They want a guaranteed Medicare benefit that they do not have to join a private program to get. They can get it through the government and it is just that simple. That is why they have rejected all these private HMOs, all of that stuff and have stayed in the basic Medicare program. It is partly because the way the insurance companies have treated them.

Insurance companies went out and promised benefits all over the place. They promised drug benefits and everything else. People joined and 6 months later they pulled out and left them hanging. So they expect the very same thing to happen with this drug benefit.

If this were something the insurance companies wanted to do, believe me they would have done it a long time ago but they do not want to do it. So it has got to be in the regular Medicare program. It cannot be privatized. And it has to have a guaranteed benefit.

You can say to people, well, here is $100 a month. Go out and see what kind of plan you get offered because you are not guaranteed anything in that. In some parts of the country it might buy more than it buys in another part of the country. But everybody will have the same amount to go out and try and buy with, so how is that going to work?

Why should it make a difference if you live in Tennessee or you live in Oklahoma or you live in Vermont or you live in Washington State or you live in Illinois? Why should you not be able to have this same plan no matter where you are in this country? Suppose you want to leave San Francisco and go and live with your children in Kansas City? Suddenly you have got to change plans. All of these are issues that come when you put it in the hands of a private insurance company.

Now, the second thing people want is to control the costs of medication. I live up in the Northwest. I live up in Seattle. Every day people get in their cars, drive across the border into Canada, and buy drugs at markedly reduced prices. Now, that went on for a long time and now there are organizations that will allow you to fill your prescriptions from Canada without ever leaving your home in the United States. Thousands and thousands of people are filling their prescriptions in Vermont and New Hampshire and Maine and New York and Michigan and Minnesota. All the States along the northern tier are doing that and it is going down in other States in the country.

Now, you ask yourself, why are drug costs lower in Canada? I mean, what is it about the Canadians that they are better negotiators or what have they done? They did one simple thing. They said you cannot charge a Canadian, they put this in law, you cannot charge a Canadian more than the average of the G–7 countries. Now, what are the G–7 countries? France, Britain, Germany, United States, Canada, Japan, and I think Italy is the other one. You take all those countries, add the price together on a drug and the average price is what Canadians pay.

All it would take for us to save all that traffic to Canada is to pass a law here that grants us the average price of the G–7 countries. This bill will not have it. It is a bad bill. And you should look very carefully at what you pay and what you do not get.

DO NOT PRIVATIZE MEDICARE

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

Mr. HOEFFEL. Mr. Speaker, there are two things wrong with the Republican prescription drug bill. Perhaps more than just two but two I wanted to talk about this evening.

The first is this bill would privatize the program. It would privatize the prescription drug benefit and it would privatize Medicare itself. The second thing wrong with the Republican prescription drug bill is that it would actually forbid, prohibit, any negotiation

by the government with pharmaceutical companies to bring down the cost of the drugs.

Now, let me address the first question. Privatization of this proposed drug benefit is a very bad thing. It would, instead of establishing a drug benefit in Medicare, a guaranteed benefit set by the government, responsible to the Congress as all of the rest of Medicare has been situated and constituted for the past 40 some years, the Republican plan would set up a prescription drug plan through private insurance companies and HMOs.

Now, those companies have a pretty bad track record in terms of delivering the same product year after year at the same price. In fact, they do not. And in the Medicare+Choice program, at least in the Philadelphia area that I represent, the private HMOs have been increasing the costs of Medicare+Choice, taking away the benefit, making a program that they offered a very elaborate benefit at a relatively low cost and taking away those benefits and increasing the costs.

The same thing would happen if we set up a prescription drug program through a privatized insurance based system.

The second thing wrong with this privatization is after 10 years they will privatize Medicare itself through this voucher concept that would have vouchers made available in a particular area based upon all of the bidding done by private companies and HMOs as well as Medicare. And that balanced figure, that blended figure would be the voucher provided for an individual to purchase Medicare. And what would happen is the companies would undercut Medicare, they would attract younger seniors and healthier seniors, they would be allowed, therefore, to save money because they would not be paying as many bills, and each year in each cycle of bidding those private companies would be able to drop their premiums lower than what Medicare would have to charge. Medicare would be stuck with older seniors and sicker seniors and it would be the end of Medicare as we know it. That is what this is going to be achieved if we allow the privatization of Medicare in this bill.

The second major problem is the prohibition on negotiating with the drug companies for lower prices. I do not get it. I do not understand it. What is the point of setting up a Medicare based prescription drug plan if we do not use the Federal Government's bargaining power to negotiate with the large pharmaceutical companies for a lower price? That is the whole point. That is why other countries that have large bargaining units negotiating with the pharmaceutical companies have much lower prices than we do.

The Committee on Government Reform under the ranking member, the gentleman from California (Mr. WAXMAN), just did a study in my district. The seniors in the 13th Congressional District of Pennsylvania benefit paid twice as much for their drugs as seniors pay for the very same drugs on average in Canada, England, France, Germany and Italy, twice as much because those countries have a combination of bargaining power that they use to negotiate with the drug companies for lower prices.

This Republican bill prohibits such negotiation by the Secretary of HHS with the drug companies. That is nonsensical and that alone is a good reason to vote no. Those are two reasons. There are many more. We should defeat this bill. Pass the substitute proposed by the gentleman from New York (Mr. RANGEL) and the gentleman from Michigan (Mr. DINGELL) and give seniors a real prescription drug program.

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

(Mr. SIMMONS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

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

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

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

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

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. SHUSTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REVISIONS TO THE 302(A) ALLOCATIONS AND BUDGETARY AGGREGATES ESTABLISHED BY THE CONCURRENT RESOLUTIONS ON THE BUDGET FOR FISCAL YEAR 2004

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

Mr. NUSSLE. Mr. Speaker, I submit for printing in the CONGRESSIONAL RECORD revisions to the 302(a) allocations and budgetary aggregates established by H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004. The authority to make these adjustments is derived from Section 404 of H. Con. Res. 95 (H. Rept. 108–71).

As reported, H.R. 2555, the Homeland Security appropriations bill for fiscal year 2004, provides new budget authority of $890,000,000 for medical countermeasures against biological terror attacks. That appropriation would be authorized under a bill (H.R. 2122) that has been reported to the House by the Committees on Energy and Commerce and Government Reform. Section 404 of the budget resolution permits the Chairman of the Budget Committee to increase the allocation to the House committee that provides such budget authority pursuant to a reported authorization bill in an amount not to exceed $890,000,000 in budget authority for fiscal year 2004 and outlays flowing therefrom.

While I am concerned that the reported bill provides an advance appropriation for fiscal year 2005 of $2.528 billion that, if enacted, could be limited next year to achieve budgetary savings for the fiscal year 2005 appropriations bill, I will exercise my discretion under the budget resolution and increase the fiscal year 2004 allocation to the House Committee on Appropriations since the requirements of Section 404 of the budget resolution have been met. I therefore increase the fiscal year 2004 302(a) allocation to the House Committee on Appropriations by $890,000,000 in new budget authority and $258,000,000 in outlays, making the allocation to that Committee $785,565,000,000 in budget authority and $861,342,000,000 in outlays.

Questions may be directed to Dan Kowalski at 67270.

MEDICARE BILL WILL HARM CANCER PATIENTS

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

Mrs. CAPPS. Mr. Speaker, the Medicare bill that we will vote on this week is a bad bill. It undercuts this critical program that has been provided health care to millions of seniors. It provides spotty coverage that will not help these seniors with their expensive medications. And it reneges on a promise that we have made to America's seniors by ending Medicare as we have known it. But I want to talk about a particularly objectionable provision in this bill that has not gotten much attention. The part that cuts funding for cancer care.

The Medicare bill is supposed to make it easier for patients to get health care, but it will actually make it harder for cancer patients to get the care they need. Cancer is a scourge that has touched nearly every person and family in this country. Cancer patients and their loved ones have a very strong loyalty to the medical professionals, this whole team of oncology care givers who deliver what is so often brutal treatment. This is especially true of the often unsung heros of quality cancer care, oncology nurses.

As a nurse and someone who lost a daughter to cancer, I have seen firsthand essential contributions made by these amazing men and women who monitor and support, deftly guide the delicate treatment regimen. But the House Medicare bill has a provision that will cut half a billion dollars from cancer care in America.

Anyone who thinks you can take this much money away from cancer care and not endanger the quality is fooling themselves. The bill does correct an overpayment for oncology drugs that goes on today. Medicare's system of paying for cancer drugs charges cancer payment and the government too much and doctors too much. There is no disagreement on that or on that it needs to be fixed. But while we have paid too much for cancer drugs, Medicare drastically underpays the oncology practice costs. The oncology community has been using this overpayment for medications as a way to make up for the underpayment in oncology services. And we should fix this overpayment for medications because the patients should not be overcharged for their medications. Of course, Medicare and taxpayers should not be overcharged either. But we also have to make sure oncologists are paid properly for their services.

Cancer care has changed a great deal since the creation of Medicare. In fact, most of cancer care has been developed since Medicare was created, moving out of the hospital and into doctors offices and clinics where having oncology nurses and support staff are even more important. They are the frontline providers of cancer care, managing therapies and side effects, helping to keep seniors out of the hospital, saving the Medicare program money, providing counseling to patients and their families and conducting clinical trials and research to improve and advance cancer treatment.

Yet, while patients value this high-quality hands-on loving care, Medicare dramatically undervalues and underpays the cancer care given by these nurses, pharmacists, social workers, and lab technicians who are part of the multidisciplinary cancer team.

Without adequate resources, the reality is that physicians will be unable to sustain the provisions of quality care and will reduce their practices or close them entirely. The first services to be let go will be oncology nurses. In addition to cutting funds from cancer care, the new payment system in this bill will make many cancer patients, 60 percent of the seniors on Medicare, go to the oncologists twice as often, frail, sick seniors doing this. It will actually cause cancer patients to pay more out of pocket costs and wait longer for treatment, increasing their health risks. It is so wrong.

The gentleman from Georgia (Mr. NORWOOD) and I joined with the cancer community to craft legislation to resolve inequities in the cancer care system and address concerns about the overpayment for oncology drugs. And we work hard during the recent markup to try to correct the Medicare bills flawed cancer provision.

Our proposal offers a more accurate payment for oncology drugs and would direct Medicare to establish new payments amounts for physician services related to the treatment of cancer patients, including the added work performed before and after patient visits and consultations. It is so essential. It recognizes the true cost of providing cancer care.

We will all go home after we pass this Medicare bill, and we will have to face our constituents. I, for one, do not want to tell the cancer patients in my district that Congress has decided to curtail their treatment and endanger their care. I hope no one here will.

Just listen to what the cancer community is saying about the House and Senate bills. Ellen Stovall of the National Coalition of Cancer Survivorship says, ''Instead of expanding access to life saving drugs, these bills limit access to cancer treatments for some of the most seriously ill Medicare beneficiaries.''

Susan Braun of the Susan G. Komen Breast Cancer Foundation says, ''The millions of cancer patients in this country who rely upon Medicare need to know that their access to care will be severely disrupted if these bills go through.''

□ 2245

They are going to hold us accountable, and they should.

Mr. Speaker, I hope that all my colleagues will join me in fixing these unfair and shortsighted provisions of this Medicare bill.

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

(Ms. WATSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

(Ms. JACKSON-LEE of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. WEXLER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. BERRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. BALLANCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. SANDLIN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. STRICKLAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TIME IS NOW FOR REAL, MEANINGFUL, AFFORDABLE MEDICARE PRESCRIPTION DRUG BENEFIT

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

Mr. HONDA. Mr. Speaker, the elderly and disabled have waited long enough for a prescription drug benefit in Medicare and for relief from the high cost of prescription drug prices. While the Republicans have been busy voting on permanent tax cuts, seniors throughout the country have been waiting for Congress to take action on prescription drugs. All seniors need relief from prescription drug prices, and they need it now.

However, the Republican prescription drug bill completely fails the test of a real Medicare drug benefit. The Republican bill has no guaranteed minimum benefit, no guaranteed, affordable monthly premium, and no guarantee of fair drug prices. To add insult to injury, their bill leaves a huge coverage gap. Seniors who need more than $2,000 worth of drugs must pay one hundred percent out-of-pocket, and keeping paying premiums, until they reach the $3,500 out-of-pocket cap.

Mr. Speaker, the Democrats have an alternative we hope to offer. Under the Democratic plan, seniors and individuals with disabilities will be able to keep making the choices that matter to them. Seniors won't be forced to join an HMO. They won't have to join a private insurance plan that will restrict their access to needed drugs, deny coverage for the medicine their doctors prescribe, or force them to change pharmacies. And unlike the Republican plan, our plan has no gap—beneficiaries will always have coverage.

Mr. Speaker, the time is now for a real, meaningful, and affordable Medicare prescription drug benefit. Unfortunately, it looks like this Republican-led House won't be providing one anytime soon.

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

(Mr. ROSS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. ALLEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. DAVIS of Alabama addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. THOMPSON of Mississippi addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. TURNER of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. TANNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. STENHOLM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IMPACT OF PRESCRIPTION DRUG BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Arkansas (Mr. BERRY) is recognized for half the time until midnight as the designee of the minority leader.

Mr. BERRY. Mr. Speaker, we are here this evening to talk about the impact of this very cynical prescription drug bill that is proposed by the majority side and what would happen if that bill, were we so unfortunate as a Nation as to have that bill enacted into law and put upon our senior citizens.

We are indeed pleased that the gentleman from North Carolina (Mr. BALLANCE) is here with us, and at this time I would like to yield the floor to him and let him make whatever comments he sees fitting in regard to this particular issue; and we thank the gentleman from North Carolina.

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

Mr. BALLANCE. Mr. Speaker, I want to say at the outset that it is an honor for me to be standing in these hallowed halls as we address issues of such great import to the people of this country.

A little more than a year ago, I campaigned in rural eastern North Carolina. I spoke to citizens at AARP meetings, at senior centers, at residences and elsewhere; and like most of my colleagues in this 108th Congress, I made a solemn promise that I would support and vote for a prescription drug benefit program. Each of us, I believe, most of us I know, made that promise to our constituents; and I, and I hope most of my colleagues, will keep that promise. I know that I will keep mine, and I will not vote for a plan that simply has the label on it.

The plan that the Republican leadership of this Chamber has proposed would not benefit our seniors in the way that they need and deserve. It is not a real prescription drug plan. It is what I would call an empty promise.

Mexico, Canada, Germany, England and France, what do all these countries have in common? Their seniors all pay lower prices for the exact same prescription drug medication that American seniors today cannot afford. One month's supply of Zocor, a prescription commonly taken by seniors to lower their cholesterol, costs $124 in the United States. In Europe, the same medication costs $28. The antidepressant Prozac, also widely prescribed throughout America, costs nearly $100 for just 20 pills. In Canada, those same 20 pills cost $20.

Throughout America, seniors have for years been forced to choose between food on the table and medication, stories that we have heard about cutting pills in half or going without. Hardest hit are seniors and disabled of rural America, such as those in Arkansas and in North Carolina, the area that I represent.

We have three plans before this Congress: the House Republican measure that focuses on nothing less than the absolute dismantling of Medicare as we know it; a Senate bipartisan measure that is somewhat better, although still falls far short; and we have a Democratic plan that is affordable, it is available, guaranteed and will maintain Medicare. Our plan has no gap in coverage, no doughnut hole, does not depend on the whims of HMOs or private insurance companies. However, we all know full well that, because it is a real plan, it probably will never see the light of day.

Hopefully, however, the Democratic plan will force the Republican leadership to reconsider their devastating proposal and treat our seniors fair. So tonight we focus on the reality of how House Republican leadership efforts hurt seniors in rural America, disenfranchise, dismantle and ultimately devastate.

That is what we can expect in eastern North Carolina if the House GOP has its way with this prescription drug coverage. That plan will privatize the prescription drug benefits by relying heavily on HMOs to facilitate these programs.

Anyone who lives in rural America, such as eastern North Carolina, already knows the health crisis facing families and seniors, as big HMOs have abandoned them and consider them unprofitable.

I am going to close because I think we know what we are facing. We know what we must do. We must fight to ensure that even hard-to-reach rural communities are included equally and with real results in a much-needed drug coverage plan; and we, Mr. Speaker, must keep our solemn promise.

Mr. BERRY. Mr. Speaker, I thank the gentleman from North Carolina for his comments, and appreciate his leadership in this matter that is so critical to the senior citizens of this country and the tremendous impact it will have not only on our seniors but on all Americans because when the government makes it possible for one person or group of persons like the prescription drug manufacturers of this country, when the government makes it legal for them to rob and to steal from senior citizens, when the government allows that to go on day after day after day, it is our job to speak out. It is our job as best we possibly can to do something about it.

It is an interesting thing, every speaker that talks about this refers to the fact that the United States of America and American citizens pay three to four times as much for their medicines as any other nation in the world, and yet the President of the United States has within his power the ability to change that with the spoken word. All he has to do is tell the Secretary of Health and Human Services, Mr. THOMPSON, certify that we can put a stop to this, certify that we can safely reimport medicine and let our people be treated fairly, but the President refuses to do this.

So it is left up to us, once again, to attempt legislation that will make it possible for the senior citizens of this country to be treated fairly. How can we deny the pain and suffering that this policy, that this country has put in place, causes to our senior citizens and to their families? How can we continue to let that go on? Yet when a remedy is proposed, in this cynical way that we will be presented with before the end of this week, I think it is called the Thomas-Tauzin bill or the Tauzin-Thomas bill, but we cannot devise a more cynical attempt to trick the American people and the senior citizens of this country.

That bill, if we would be so unfortunate to see it enacted, specifically prohibits the government from trying to achieve the best possible price for our citizens. It specifically makes it possible for the drug companies to continue to rob the senior citizens.

It would privatize Medicare. Medicare came into being because private insurance did not want to insure people that were older and sicker, and yet now we are going to turn this back to the insurance companies. If anyone thinks that that is a good idea, I would suggest that they go out and try to buy some health insurance from a private company for a 65-year-old citizen.

It will end Medicare as we know it. One of the authors of this bill came before the Blue Dog Coalition this afternoon, very proud of his work. It was interesting as he sat there and described this; and he said, I have softened this part of the bill; instead of just ending Medicare as we know it in 2010, we are going to phase that, ending in over 3 or 4 years. So it just will not be quite as noticeable.

I could not help but think as I was listening to that about my brother when we were young boys. He had worked hard one summer and saved his money, and he wanted to buy himself a shotgun for hunting season. He went to town and went to the hardware store, and he asked this fellow how much will you take for a certain shotgun. The proprietor said, well, I do not have one; but if I did, I would sell it to you for $100. So since the fellow did not have one, he went on around the square, and he came to another hardware store and went in there and asked him if he had that gun. He said, yes, I do. He said, well, how much will you take for it? He said, I will take a $110. He said, well, the other fellow on the other side of the square said he would take $100 for his, but he did not have one. He said, well, if I did not have one, I would take $100 for mine.

That is the way this deal works. It does not even go into effect for 2 years, 2006. Our seniors have an urgent need today. We have the ability to provide relief today; and yet we are going to be presented with this cynical, horrible piece of legislation that is nothing more than an attempt to trick our senior citizens in desperate need into doing something that will make their desperation even worse.

What kind of a legislative body would do something like that? This is absolutely amazing that the leaders of the Republican Party in the House would be so cynical that they would be willing to attempt to take advantage of senior citizens who have already paid the price, done the work, lived by the rules, and built this great Nation into what it is today; and now they are going to be treated like this by those of us that inherited this wonderful place.

□ 2300

I am astounded that we have to come to this floor this evening and do everything we can to try to prevent such an outrageous act by the majority.

Mr. Speaker, I now yield to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, let me first of all thank my colleague, the gentleman from Arkansas (Mr. BERRY), for being out here. It is 11 p.m. eastern time, and people might wonder what we are doing here this late. Well, we are talking about an issue that is important. We are talking about an issue when I go to a church on Sunday where people still confront me and ask me what we are doing about this issue. I know myself and we have the gentleman from Texas (Mr. SANDLIN) out here tonight to talk about an issue that continues to confront us, yet we continue to play games with the American people and with our seniors. That is not right. We need to make sure that we do the right thing.

Mr. Speaker, we know that our seniors are having difficulties. We know that the majority of them do not have the resources to pay for their prescriptions. We also know on the Republican side and on the Democratic side that the private sector, the insurance companies, cannot make a profit on our seniors when it comes to prescription drug coverage. We recognize that.

When this all first started, with LBJ, there is a little story that is told about this. When LBJ was trying to put Medicare together, the biggest obstacles were the insurance companies back then, and the doctors. He finally got the insurance companies there and he told them, look, I am going to do you a favor. You have been making a profit off of the young people and insuring them while they are healthy, and as soon as they get sick on you, you have been dumping them and dropping them off your insurance rolls. So we know that the companies were doing that then and they are still continuing to do that now. So when he got them in there he said, look, I will do you a favor. You keep taking those profits while they are healthy but allow us to establish Medicare so that we can take care of them in their later years when they become seniors and they need the assistance, and you can continue to make your profits.

And so now we have a situation where our seniors still reach that age where they need that assistance, where they need our help, where they need prescription drug coverage, and what angers me the most is that the drug companies are the ones that are making a profit off the ones who can least afford to pay for these prescriptions.

We talk about the fact that those same prescriptions are sold, Mr. Speaker, in Mexico and Canada, the same company, same brand, only cheaper. And why? Because they are sticking it to the Americans. And we have allowed that to happen. We have allowed that to continue to occur.

We talk about free trade but yet we do not allow our own Americans to cross the border into Mexico to buy prescriptions. Why not allow free trade from that perspective? It is only good for companies, but not for the average person to do that.

So we need to make sure that, number one, the bill has to be affordable for people. The senior has to be able to purchase it. I can attest to my colleagues that the majority of my district, with a median income of $23,000, $21,000, and especially my seniors, who if you live in rural Texas or rural America you do not have a pension because you did not work for a major corporation or the government, so you do not have a pension. All you have is Social Security. So you do not have extra money to buy additional coverage. And if you did, believe me, the insurance companies do not want that because of the fact that they are not going to make a profit off you. We know the data. We know the seniors sometimes need up to $2,900 per year. So if you need $2,900 per year, close to $3,000, they are not going to make a profit from you. We know that. Yet we are playing games and doing gimmicks.

But this President and this administration has to come up this coming year in November for reelection and they are going to have to tell us what they have done when it comes to prescription drug coverage. They will be asked what they have done. Because I recall the last 2 years, and I want to ask my constituents to remember this, because any Republican who had serious opposition the last time there were ads that came out. We had an ad for the gentleman from Texas (Mr. BONILLA) back home, and that ad said, ''Call Congressman BONILLA to thank him for the prescription drug coverage you received.'' Well, I am going to ask you right now: Have you received anything back home? No. It is a gimmick. It is all nothing but sarcasm. It angers me because they play games with the American people and they play games with our seniors.

So we have to make sure if we come up with a program that it is affordable. What the Republicans have is not affordable. Secondly, it has to be meaningful. It has to be real. It has to be guaranteed. We cannot afford to have these little gimmicks. The reality is that the bill that the Republicans have is meaningless. It is private insurers that can change the terms of the agreement.

We had the HMOs. I have rural counties. I had 13 counties, now I have 11 counties after redistricting, and those counties, wherever the HMOs and the managed organizations were not making profits, they did not cut the individuals, they cut the whole county. So we are not going to be able to have access in rural Texas, in rural America. So it is meaningless.

Finally, we also understand that we have to make sure that we guarantee our seniors the accessibility to these prescriptions. This is the most powerful country in the world. We have the capability and, yes, we have the best

health care system in the world. But what good does it do if it is not affordable; if it is not accessible; if it is just not there? Yet we do have the best health care system. It is ridiculous for us to be doing this, and it is unfair to our seniors to be playing games with their lives, especially as they reach their twilight years when they need this the most and they have to sometimes go without buying all the prescriptions that are needed.

So, Mr. Speaker, I want to thank my colleague for being here tonight, and I thank the gentleman from Texas (Mr. SANDLIN) for being here and spending time talking about this critical issue. I want to personally just congratulate my colleagues and let them know that we have to keep this fight up. We have to keep talking about this, and we have to stop playing games.

When that Presidential race comes up again, we have to let everyone know what he has done for prescription drug coverage. The Republicans have control of the Presidency, they have control of the Senate, they have control of the House. What are they doing? They are playing games. This is not the time to do that.

Mr. BERRY. Mr. Speaker, I thank the gentleman from Texas and appreciate his passion and concern for all senior citizens in this country.

This bill would not only end Medicare as we know it, but, interestingly enough, it does not have a defined benefit. It does not have a defined premium. It turns this business over to insurance companies that have a very poor record of being able to deliver service when it is called on to do that.

We have been fighting the Patient's Bill of Rights battle in this House all the time that I have been here. We still do not have a Patient's Bill of Rights. But the pressure got to be so great on the insurance companies that they did stop the grossest abuses that they have engaged in to deny coverage and deny service to our American people. They would be allowed to define their own benefit. They would be allowed to set their own premium. They would be able to create many, many different plans, and it would be nearly impossible for a senior citizen to tell the difference.

I have to believe, Mr. Speaker, that our Founding Fathers would be saddened and sickened to see the great Nation that they brought in to being, that has succeeded and prospered beyond all imagination, to the point where we have the ability to do these wonderful things for our seniors, and yet when the opportunity presents itself, the majority chooses to use that opportunity in a cynical way and in a way that only serves to enrich a few people in this country.

I want to now yield to the gentleman from Texas (Mr. SANDLIN), who has worked tirelessly on this issue to defend our senior citizens against such activities as would be used against them if this bill were to be passed.

□ 2310

Mr. SANDLIN. Mr. Speaker, I would like to thank the gentleman from Arkansas (Mr. BERRY) who is both a good personal friend of mine and a political friend of mine, and I want to thank him for 7 years of political leadership in addition to his practical leadership due to the fact that he is a pharmacist and speaks with a great deal of authority on these issues.

Mr. Speaker, in looking at this bill it is clear, it is the old bait and switch. I rise today to join the gentleman from Arkansas (Mr. BERRY) and my colleagues in speaking to the Republican House leadership abandonment of rural America by crafting a sham prescription drug benefit. Because at the end of the day, it is no plan at all. What a cruel joke on America's seniors.

As the United States Representative of rural east Texas, I am gratified to have an opportunity on the Committee on Ways and Means to be a voice for my constituents at home. The seniors in my district have told me clearly that they need real relief for their soaring medical expenses; and yet once again this year the majority leadership in Congress has rejected its responsibility to deliver a true prescription drug benefit to our parents and grandparents and friends at home. Just like last year, the Republican majority has delivered an alleged prescription drug plan which favors profits over people, insurance companies over seniors, HMOs over American families.

Today I want to talk about choices and who is choosing what. Our Republican colleagues in the House of Representatives love to say that they are giving our parents and grandparents and friends choices for their prescription drug benefit. Mr. Speaker, that is simply not true. They also have stated that if our seniors and disabled folks want prescription drug coverage, then they have to look to HMOs and private insurance companies, not Medicare for help. That is the choice they have, and what kind of choice is that? It is clear, it is absolutely no choice at all.

Now anyone who lives in rural areas knows that this little rule is anything but a choice. Rural areas have been flat out abandoned by private insurance companies. We know this, Medicare+Choice, the great managed care experiment in our Nation's seniors, should have been named ''Medicare Minus Choice.'' It has been a disaster.

Just look at the facts. Between 1998 and 2003, the number of Medicare+Choice plans dropped by more than half. In the great State of Texas, over 313,000 Medicare+Choice enrollees have been dropped just since 1999, 313,000 people in my State. Further, this is occurring all over the country. The 10 States, including the District of Columbia with the highest percentage of their enrollees dropped in any 1 year from 1998 to 2003 were South Dakota, the Mount Rushmore State, 99 percent; Delaware, the First State, 95 percent; Arkansas, the Land of Opportunity, 90 percent; New Hampshire, 85 percent; Maine, 82 percent; Maryland, 79 percent; Utah, 76 percent; District of Columbia, 71 percent; Kansas, 54 percent of the people dropped; Connecticut, 52 percent of the people dropped. It goes on and on.

Mr. Speaker, over 80 percent of rural Medicare beneficiaries today live in an area that private insurance companies have made a choice, that is the choice, they have made a choice not to serve. Now please note, this is not an entitlement program. This is not entitlement as we know it under Medicare. You have no guarantee. This is this kind of an entitlement, it is an entitlement to ask to be able to make an offer to purchase a plan from a reluctant, profit-seeking insurance company that may or may not accept your offer.

By the way, it is very important to note this: not a single insurance company in the United States of America has agreed to take part in this program. Let me say that again. Not one single insurance company in the United States of America has agreed to take part in this plan anywhere in America. That is a fact.

Furthermore, even if they do decide to participate at some time in the future because they think they can make big profits, under this latest Republican drug proposal, if the private drug plan or insurance company decides rural America is not lucrative enough for their company, they can withdraw every 12 months. So much for our seniors having the choice of continuity of care.

Knowing this, how can we approve a plan that does not even have a fallback option of traditional Medicare providing drug coverage if private care pulls out? How is that a fair choice for the 9.3 million seniors and disabled folks that live in America? What kind of choice is that?

Let us be clear, this legislation does not and this legislation cannot require insurance companies to offer prescription drug plans in rural America, and they will not. They have not and they will not. If we are going to talk about the choice of being fair, we are going to have to talk about prices. Under this bill, the HMOs and pharmaceutical companies are given the express choice, there is that word again, they are given the choice to determine how much to charge and what prescription drugs to offer seniors and the disabled.

Mr. Speaker, what do you think they are going to choose: high prices or low prices? More coverage or will they choose less coverage? Mr. Speaker, the answer is clear, it is profits over people. That is their choice.

Yesterday the President said, ''When the government determines which drugs are covered and which illnesses are treated, patients face delays and inflexible limits on coverage.'' Yet now he wants to turn over those very decisions to insurance companies who have a financial interest, who have a financial gain to make in denying coverage

to America's seniors. They make more money, the more seniors they deny, the more money they make and the circle goes on and on. That is not a good choice.

We have an opportunity to deliver a true prescription drug plan to our seniors this week, and to do so Congress must come together and choose to soundly reject this Republican albatross, this madness. If we shine a light on this, we can see the many problems with this sham prescription drug proposal. It does not provide a guaranteed, defined set of costs and benefits; it does nothing to reduce the high price Medicare beneficiaries are forced to pay for their prescription drugs. For seniors it is simply high on cost and low on benefits with a gap in coverage so large that our seniors would forget they have a drug benefit if they were not still writing a monthly check for the premium while they were not getting any benefits. Still paying a premium, not getting any coverage. That is not a nice choice.

Our Republican colleagues say we do not have enough money to give a better prescription drug benefit. Mr. Speaker, that, too, is just a bad choice they have made, to enact $1.7 trillion in tax cuts. While we are paying $1 billion a day in interest for the wealthy rather than serve our Nation's seniors is an outrageous and true reflection of their priorities. It shows you where their heart is. You can get lost in the details, but the result is clear. This is a terrible piece of legislation. Let us forget the gimmicks, it is time to deliver a real drug plan to our Nation's seniors. All they want is an affordable drug benefit with a reasonable premium cost that is defined and meaningful benefits, and that means a benefit without a $3,000 gap in coverage. They just want a benefit that is available to all seniors regardless of whether they live in Texas or California or New York City.

□ 2320

The Republican plan is just a shameless smoke and mirrors scheme. Let us reject this tired bait and switch scam. We know the end game, do we not? Everybody in here does. Former Republican Speaker of the House Newt Gingrich said Medicare should wither on the vine, and recently our Republican colleague in the other body, Senator SANTORUM, said traditional Medicare should be phased out. That is the goal. That is the object. That is the plan.

Let me read something I did not say, something the Republicans did not say, something the Democrats did not say. This is in Newsday June 23, 2003. ''The House proposal would replace Medicare's guaranteed coverage with a guarantee only that the elderly would get a sum of money to buy whatever kind of benefits at whatever price private insurers chose to offer. Those who want traditional fee for service Medicare would be forced to pay higher premiums. So at least now we know the drug plan, skimpy and fraught with uncertainties, is merely a cover for achieving former House Speaker Newt Gingrich's dream of forcing Medicare to wither on the vine.'' Newsday. That is the plan.

This ill-conceived and inadequate plan is not an attempt to provide drug coverage to seniors. It is an attempt to set up the very destruction of Medicare and place HMOs and insurance companies in the catbird seat. It is as simple as that. We all know that.

Now Congress has to make a choice. Seniors and healthcare, HMOs and profits, privatization or Medicare. Mr. Speaker, it is our choice to make. Whom do we stand for? Whom do we stand for in the United States Congress?

Mr. BERRY. Mr. Speaker, I thank the gentleman from Texas for his great leadership in this matter and continued willingness to do the battle on behalf of our senior citizens in this country.

I yield to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding, and I want to commend the gentleman from Arkansas for bringing this particularly important issue before us because this plan is a particularly cynical plan as far as it affects rural districts around America. People do not usually think of my Massachusetts district in the western and northwestern part of the State of Massachusetts as being a rural district, but it is in fact that.

Mr. Speaker, rural seniors like all seniors need help now paying for their prescription drugs. The Republican leadership's prescription drug plan leaves seniors waiting 3 years more for relief. But by 2006 when it finally goes into effect, this ingeniously devious legislation still will not give rural seniors a prescription drug benefit because there will not be a prescription drug plan available for them to access. The Republican leadership claims this plan will provide choice for all Medicare beneficiaries. The Republicans say that seniors all across the country including rural areas will have access to two different prescription drug plans, one, a private HMO health plan which includes prescription drugs, and, two, a prescription-only plan offered by a private insurance company but deliberately not a part of the Medicare that seniors trust.

Rural seniors know that private insurers are not going to offer such plans at an affordable price. The evidence is clear. The Medicare+Choice program shows how private HMO's role in Medicare has failed in rural areas. These Medicare HMOs have abandoned millions of Medicare recipients living in rural districts like mine all over this country. Currently four out of five seniors in rural areas have no access to an HMO managed care plan under Medicare leaving rural seniors with no choice. Why have HMOs abandoned the rural areas? It does not take an economist to figure that out. With the sparse populations in rural areas, these private HMOs could not turn a big enough profit; so they had no compelling reason to stay and provide services. Since Republican leadership knows rural seniors will not fall for promises of Medicare HMOs again, they have also provided the choice of a prescription-only benefit provided by private insurance companies while allowing seniors to stay in the Medicare that they do trust.

But this legislation makes a promise of insurance that does not currently exist and can never exist in any affordable form for the exact same reason that HMO insurance plans could not make a profit in rural areas. Prescription drug costs are exorbitantly high; yet the Republican leadership expects that private insurers will be eager to provide this prescription-only benefit to the segment of the population that uses the most prescription drugs but has the least available cost. There are no incentives for the insurance industry to provide this benefit.

In the end the high premiums and high costs will fall to seniors who will be left with the same exorbitant drug costs they currently pay. Worst of all, by the year 2010, the Republican leadership is determined to undermine Medicare and eliminate the fee for service program so Medicare can be exclusively run like an HMO. This will leave no choice whatsoever because rural seniors will have neither of the plans they have been promised.

The Republican leadership is placing the lives of our rural seniors in the hands of insurance companies that they do not and cannot trust, who have abandoned them in the past but in reality by 2006 the promises being made now to rural seniors to provide a prescription drug benefit and a Medicare HMO choice will never be kept. Rural seniors will have no choice. There will be no private insurance providers riding to the rescue, and rural Medicare beneficiaries will still pay the same exorbitant drug costs they now pay.

The Republican bill nullifies every promise to take care of our poorest and sickest seniors. It is a sham and a cruel hoax for rural America.

And I want to again thank the gentleman from Arkansas for his leadership in bringing this issue before the floor this evening.

Mr. BERRY. Mr. Speaker, I thank the gentleman from Massachusetts and the gentleman from Texas.

Mr. Speaker, rural pharmacies are the only professional healthcare providers we have in many of our rural communities. If this bill were to become law, it would wipe out those institutions. It would make it impossible for them to stay in business because they would be forced to compete with a mail order operation that would be so full of gimmicks that it would be impossible. These mail order operations would be set up by the prescription

drug manufacturers with the cynical reason of taking the healthcare providers out of these communities. HMOs will have an incentive to put profits before patients. Headlines in the Wall Street Journal today documents a situation exactly like that where an insurance company or a pharmacy benefits manager chose to put profits before patients.

Let us not wipe out healthcare for senior citizens in rural America. Let us deny this bill and send it back until we can do what we know that we have the ability to do, and that is to provide to seniors citizens of this country with a reasonably priced prescription medicine program that will serve them well and serve this country well.

H.R. 2544, THE MEDICAL INDEPENDENCE, PRIVACY AND INNOVATION ACT OF 2003

The SPEAKER pro tempore (Mr. GARRETT). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. ROHRABACHER) is recognized for the remaining time until midnight as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, before my colleagues leave, let me just note that that quote from Newt Gingrich that was bandied around earlier, we have seen that quote used many times, and those of us who have been who have seen the full quote know that that quote was taken out of context and often Mr. Gingrich pointed that out as an example of the abuse of the public trust by presenting something that was totally misrepresented.

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

Mr. ROHRABACHER. No, I would not.

Mr. Speaker, I think I control the body. I have the floor.

Mr. SANDLIN. I am just asking if the gentleman would yield.

PARLIAMENTARY INQUIRY

Mr. SANDLIN. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman has not yielded for a parliamentary inquiry.

Mr. ROHRABACHER. I would ask that the gentleman be removed from the floor.

Mr. SANDLIN. Mr. Speaker, Parliamentary inquiry.

Mr. ROHRABACHER. Mr. Speaker, I am reclaiming my time. I would ask that the Sergeant at Arms remove the gentleman from the floor if he insists on taking my time.

Mr. SANDLIN. I do not want the gentleman's time.

Mr. ROHRABACHER. I would ask the Sergeant at Arms to remove him from the floor if he continues to interrupt.

The SPEAKER pro tempore. The gentleman from California has not yielded. The gentleman from California is recognized.

Mr. ROHRABACHER. Mr. Speaker, we have seen this misuse of this quote so often in this body, and I would just like to make sure that the public is aware when they hear it misused again that Mr. Gingrich has time and time again demonstrated that that quote was being misused by people who were trying to misrepresent what he said.

□ 2330

Mr. SANDLIN. Mr. Speaker, would the gentleman yield at this point?

Mr. ROHRABACHER. Mr. Speaker, I would be happy to yield.

Mr. SANDLIN. Mr. Speaker, I would just like to ask the gentleman, if that has been misquoted, I would like the gentleman, number one, to read the entire quote, because the gentleman will see that, in fact, he did say that it should wither on the vine; and possibly the gentleman could comment on Senator SANTORUM's comment that we should phase out traditional Medicare. I thank the gentleman for yielding.

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman. Let me just note that this quote, as I have stated, has been refuted over and over again and demonstrated by Mr. Gingrich in many public forums that it was being used in a very irresponsible and dishonest manner.

I would just note now that I would like to discuss a different approach to medical independence and privacy and health insurance and the whole issue that we have been discussing tonight and will be discussing further in the next few days.

I have a piece of legislation that I would like people to consider and that I would like them to look at; it is H.R. 2544. It is a piece of legislation that I believe offers a whole new approach to medical care and health care in America.

Unfortunately, all too often, the discussion of medical reform legislation has been focusing on the allocation of more funds. Sometimes those funds would help in our society those who are lacking resources to purchase their own adequate health care and medical care; but at other times when we are talking about spending more funds, what we are not talking about is helping those who really need it and cannot provide for themselves, but what we are talking about is subsidizing everybody, whether or not they need it. Rarely does Congress, when they are focusing on just spending more money, whether or not someone needs that help, rarely do we focus on how can we do things more wisely and more efficiently, and how can we bring down the costs of getting health care that would make more people able to take care of themselves. Rarely does government focus on how to create an environment which would spur the supply of medical services, and rarely do we focus on encouraging cost-cutting innovation or to provide incentives for those who create and innovate and bring up new, cost-effective methods of dealing with illness in our society.

In essence, what government does, and what this body often does, is focus on medical care demand rather than on medical care supply. This focus all but guarantees the price of drugs and hospital care and medical treatment will continue to soar and outpace the ability of many Americans to afford the price of being healthy and; certainly, as it brings the price of health care up, it then creates even more Americans, a pool of even more Americans who cannot take care of their own health care costs. So it is a cycle that leaves even more Americans dependent on the government, and then the government creates a situation where even more Americans cannot take care of themselves.

The Federal Government took over responsibility for the health care of America's seniors back in 1965. When Medicare was first enacted into law back in 1965, very few people remember what it was like back then. But before then, our economically disadvantaged were taken care of by tax dollars. Yes, they were. But most Americans who became seniors were expected to take care of themselves. And we need to ask ourselves, what has happened to the price of health care since the government assumed responsibility of taking care of all Americans over a certain age? What has happened to our health care since the emergence of Medicare?

Today, I dare say the price of health care is so high that it is inconceivable that most of our seniors can take care of themselves. Before Medicare, people were expected, if they could, to take care of themselves. Medicare came in and decided to take care of everybody. Now, almost nobody is able to take care of themselves.

Of course, the massive escalation of health care prices have hit the rest of the population as well as our seniors. Now, the same can be expected, I might add, of the price of prescription drugs if, indeed, we end up having the government take over, providing prescription drugs for all seniors, whether or not those seniors can afford to take care of themselves. What will happen is the price of drugs will soar, not only for seniors who will be paid for by the government, but by everyone else as well, again, making it even more difficult for people, for American citizens, to take care of their own health needs.

Last week, I introduced a bill entitled the Medical Independence, Privacy, and Innovation Act of 2003. This legislation combines a creative mix of market-oriented reforms that will encourage independence and, hence, wise personal medical care choices. If enacted, this legislation will further expand the protection of our medical care privacy. It makes long overdue changes in the Federal Drug Administration procedures that will encourage innovation and invention of new pharmaceuticals and, thus, will have a major effect on bringing down the cost of health care. This legislation, if enacted, will expand the variety, quantity, and availability of medical innovation. It is innovation, new technology, and our creative genius that

will enable Americans to overcome the monumental challenge of providing health care to the baby boomer generation as this generation slips into its senior years. Today, the entire system of health care delivery needs to be reshaped if we are to prevent a collapse as the baby boomer generation begins to retire and to go on Medicare.

In my legislation, I propose a program of reforms based on sound economic principles that are vital to improving medical care in America. It assures that people make choices for themselves rather than accept bureaucratic or political mandates. Today, nonseniors, as with seniors, in fact, find that health care decisions are being taken out of their hands. So even our nonseniors now, much less our seniors, are finding that they do not control their own destiny. They do not make those health care decisions that are so important to their lives. What we have done to the nonseniors in America, while co-opting the decision of every senior in America by just suggesting no one will be taking care of themselves, even those who could, we have now taken over full responsibility and taken the decision out of their hands; but we are doing that, in a way, to the people before they become seniors.

What we have done is structured a system where the employer has become the primary source of a health care service through employer-based health insurance plans. That is a fact of life, and we just had to accept it. Well, unfortunately, it means so many resources and so much power has been co-opted that consumer sovereignty and responsibility has been all but negated. Most people really do not have a choice. It is what the boss offers. If the boss offers it, it is take it or leave it.

There is an old economic truth, by the way, and that is, if the cost of a private or public good approach is zero, that means if you are being offered something and there is no cost to you taking advantage of it, there will be overuse and a waste of that good.

Today's system leaves us with almost no personal choices, but it leaves us with a system that does not rely at all on personal responsibility. We have no choices, and there is no personal responsibility as part of the system. It leaves people, American citizens, with a sense of helplessness and hopelessness and resigned to whatever is going to happen to them that is totally inconsistent with our heritage as a free people.

□ 2340

We spend more and more money on health care. We spend, in fact, more money on health care supposedly than any other country of the world. So as you are listening to people debate the issue of Medicare and debate the issue of prescription drugs and debate the issues of health care in America, remember we already spend more money by far than any other country of the world.

Perhaps part of this is due to the fact that individual responsibility has all been extracted from the system because what it is is we spend more money but we do not have the best health care system in the world and our people are not getting what they pay for or what is being paid for in the United States of America. We have, as I say, all but extracted from our system the idea of individual responsibility and personal authority over one's destiny, not to mention, of course, the profiteering and exploitation of the system by lawyers.

Now, it is time to make a new approach and our system and my bill does not reflect on the exploitation of our system by lawyers. That is another bill. That is a whole different area. But those are obviously one group of people who siphon money out of the system that should be going to people's health care. It is time to take a new approach and, again, over and above the medical malpractice situation.

It is time to take a new approach and what we need, for example, in my legislation, I am proposing that we establish medical checking accounts that incorporate both deductions and credits into our system so that our people will be free to control their own destinies.

Many American families would benefit through the ideas that I am proposing in my legislation. They would benefit by being able to purchase high deductible catastrophic health insurance plans and pay for the year to year or day to day doctor, dentist and pharmaceutical costs out of a medical checking account.

I have sat in my office with self-employed constituents who would love to be able to design their own package of medical care coverage. This approach would protect their family against the huge costs of serious medical illness, of accidents or some type of illness or disease, but it would allow them to pay out of their pocket for normal month to month costs.

Now, imagine how the intelligently a consumer spending his money would help to limit overspending and overutilization of insurance coverage. Imagine in a society where individual families could shop around for medical insurance plans that suit their needs and not have to squeeze their lifestyles into their employer options. My bill would, for example, in the end and it would end the unfair discrimination against individuals who seek independent alternatives to their employer health insurance plans that are mandated in many big businesses or many normal businesses as well, I might add. It would naturally integrate market discipline through personal choice and responsibility into Medicare spending.

My plan creates a medical checking account plan where the account base of $4,000 per family or $2,000 for an individual is built with tax deductible dollars and the estimated yearly variable costs are built in with a $1,000 tax credit replenished on a yearly basis. Now, we are beginning to find out that once we have been relegated, as we are in our current system, to cogs in a machine, either big government or big business machine, that the rights of privacy are no longer paramount or even considered. My legislation would reestablish the principle that a person owns his own medical history and must consent before it is passed on to others.

The emergence of big government and big insurance as the dominant force in health care has eroded the ideas of medical privacy, if not totally just extinguished it. It is time to swing the pendulum back. My bill restores the issue of prior consent and protects the private relationship information relationship between patient and doctor. It eliminates loopholes in the current law that will result in unsolicited merchandising, disclosures of private medical information and the diminishing privacy for millions of Americans.

Americans have visited their local pharmacy and many millions of have visited the pharmacy in the past several months and have been asked to sign a new HIPAA notice. Do these Americans realize that what they are signing is a set of rules that undermines their right to disclose or not to disclose their private and personal medical history?

This country was at one time based on the principle that you owned your medical history and that your property is your property and without your concept that that information should not be placed in the hands of another, whether that person is in big government or private corporations. We need to go back to that principle. When big government starts taking the power, of course, to protect us from ourselves, and that is what they always say, they are trying to protect us from ourselves, not just protect the people who cannot help themselves but protect everybody. They are protecting us from ourselves, you better watch out.

The government can and is protecting us to death. Not from death. They are protecting us to death. Today, for example, FDA approval standards require new pharmaceuticals not just be safe, new pharmaceuticals coming on the market, the requirement is not that they be safe, they have to be nearly 100 percent effective for everyone. It is a 96 percent efficacy rate that is demanded by the Federal Government. That makes it dramatically longer more difficult and more costly for a new drug to get on the mark. By doing this we are condemning hundreds of thousands of people to needless suffering with these overly high standards, we create hurdles to development of new drugs urgently needed and we end up preventing the use of drugs that are already available to help people, but it might only help 75 percent of the people. But if it only helps 75 percent, that cannot go on the market because the rule is it has to be 96 percent effective.

No, this is not fair and it is not right. And it is no coincidence that families of victims of leukemia, cancer, AIDS and other diseases plead to no avail for the abilities to use drugs that were legally available throughout the world. I have sat if my office with constituents who have children with leukemia or siblings with AIDS or patients with cancer who beg for us to do something to allow them to have those pharmaceutical products that are available to people in other countries. Tragically at the same time, as new drugs are provided, or excuse me, are approved for both safety and efficacy, those drugs who do manage to jump all the hurdles and become effective for almost everybody, it ends up where the price is sky high and very few people can afford them.

Then there is the case, of course, where inventors often place on their shelves and innovators and researchers and developers and scientists, they put on their shelves unused and undeveloped many innovative potential technologies and products because they can not afford the exorbitant costs of passing all of these FDA efficacy tests and are making it absolutely prove that 96 percent of the people will be totally cured by this drug.

Well, that makes no sense if 85 percent of the people are going to be cured by a drug, and I have sat in my office with inventors who have told me horror stories of these new inventions that they have but they will not bring them out because they cannot jump over these FDA hurdles.

Well, why does the FDA regulation concerning, for example, drug cocktailing today block the availability of new innovation? Why are we so afraid of new innovation? That new invasion can be set on the standard of it does no harm. I am proposing that we have the standard of it does no harm rather than a 96 percent or 100 percent efficacy rate. That is, it seems to me that that is what we should leave in the hands of the American people, the right to choose drugs that will do them no harm and they should have a right to take them if they feel, especially with the doctor's prescription that they can take that drug and treat themselves even if only 85 percent are cured rather than 96 percent.

Today, websites, consumer interest groups, investigative reporting will make the people of our country, with the help of their doctors who can help them with prescriptions and give them advice, they help the American people fully able to make these choices that were not possibly available to them or maybe the American people could not do it in the past.

Another oddity in the current system that drives up the price of drugs, not just this 96 percent efficacy standard that is insisted upon, one thing that drives up the price for drugs for Americans is the way we deal with the ownership rights of inventors, of those very same inventors and innovators that develop new drugs and find new ways of treating people more efficiently and for less costs in the long run.

□ 2350

What we do, if an individual or a corporation invests tens of millions or hundreds of millions of dollars in developing a new health alternative, all too often it takes years for them to get through this FAA approval process and the other governmental restrictions, and by the time a new drug or health care technology can be sold to the American people, almost all of the ownership time that the innovator and the patent owner has has been used up. So you only have about 20 years or 17 years with a patent, and if it takes them 15 years to get through the process, the company has to immediately charge a huge amount of money for that drug in order to cover its cost of development, to get it back, and then, of course, the drug has been held up for all of these other years. So it has not been available to the public; and then, of course, when it gets on the market we end up putting the company in a situation where it has to charge even more money to recoup its investment.

My bill speeds up the process. It basically establishes that the patent clock does not start ticking against that company until the drug can be put on the market, until it is actually sold. Thus, new drugs, rather than waiting for 20 years or waiting for 15 years, can be put on the market sooner because people want to get this thing on the market because they have lowered those FDA restrictions and the company will make money over that time period.

My bill also makes sure that once that patent term runs out, unlike today, there are many legal maneuvers these companies can play in order to keep the generic drug manufacturers from coming in and producing their drug. We eliminate those maneuvers.

So what we have done is put a drug available on the market and in the hands of the American consumer earlier and cheaper, and then we make sure that the drug companies can make a profit, and we end up making sure that the generic manufacturers can jump in earlier without being deterred by legal maneuvers.

In the end, my bill gives the people more access, more time with the drug. It can cure more people. Hundreds of thousands of people, if not millions of people, will be available to be treated with a new, innovative approach, drug, or a new health technology if my legislation sets these new standards and we move forward with a system based on those standards, rather than protecting the people of the United States to death, which is precisely what we have been doing. When we hear the FDA say we are approving the drug today and it is going to save the lives of 10,000 people a year who are dying from this disease, and then you find out it is taking 10 years for the drug to get on the market, that FDA official has just admitted that they have been in the process of participating in the unnecessary death of 100,000 people. That is ridiculous.

As we expand the ability of our drug innovators to create and make available new drugs that will, under my legislation, be protected, they will be able to make a profit at what they are doing; and the public will actually have more choice in their hands, and what we need to know, by the way, on the other hand, if the taxpayers end up financing, and there are some drug companies, we have to admit, they get money from the government to try to develop new drugs, they are subsidized by the taxpayers in developing new drugs. My bill will say if a company does that, if a private company does that, they will be subject to price controls, meaning if Uncle Sam pays the price of research and development, Uncle Sam will tell you what is a reasonable price to have on that drug; and the consumers will be protected right off the bat, even though there will be a reasonable profit margin made as well, but my bill insists that the government then put a reasonable price on that drug if the taxpayers did pay for that research.

If a company pays for its own research and development, which we want to encourage more companies to do, they will not be limited by this type of price control.

By encouraging private investment, and whether it is in the development and research of drugs or in other types of health care technology, we will thus be increasing the supply of health care of those things in our society which treat people's illnesses. By increasing that supply, it should help bring down the cost and thus the price of health care to our people. More new drugs and more new technology that can help bring health to our people being introduced on the market, that means a healthier life and a more affordable healthy life for our people.

The medical reform bill I have introduced is a creative package of reforms. I urge all of the Members and fellow colleagues to study these proposals and to support this legislation. As health care costs are obviously going up and even ordinary Americans are struggling to pay the bill and many Americans, of course, cannot pay it all, it is imperative that we begin to seriously think about new approaches to health care.

If the only thing that comes to us while we are looking at the Medicare system and the problem of health care in America is just the only thing we come up with is spending more and more money, we are going to increase the demand for drugs in our society. For example, if all we are doing is taking now a financial situation where the people who can pay for their own health care and their own prescriptions do so and we end up having the government take over all of that, we are

going to end up not only dramatically increasing the price of drugs for the government but those people outside the government, younger people, the price of their drugs will dramatically go up.

No, we cannot just simply handle this Medicare system, of course, by dramatically increasing the price of drugs, which will happen, will make sure the Medicare goes bankrupt much earlier than is scheduled. Right now, in the outyears, we can try to do something to keep Medicare solvent. If we are just going to take responsibility for everyone, even the people who can take care of themselves in terms of a drug benefit, it is going to bankrupt the system; and we will all be worse off, and the price of drugs will soar for ordinary families who are not seniors.

We ignore half the problem if we only try to spend money. We need to free up the supply end of the medical care system, the supply of people who will be producing more health care for America. Yet we also have to be, of course, concerned about the escalating costs; but we cannot be stampeded into easy answers, quick fixes, because those just spending more money without creating any innovation in the system or any reforms in the system, it will make all of our problems worse. Backing up the Federal dump truck and just pouring in a mammoth load of tax money is not a quick fix. It will not work; and with new expenditures, it is going to bankrupt the system and cause the price of drugs to go sky high for all the American people, not just the seniors.

No, the tooth fairy is not going to leave the money that is going to be spent on health care and improving our health care system under our pillow. Each and every one of us will pay. So it is irresponsible not to try to make the system more competitive, less bureaucratic, more innovative as we are talk about expanding Medicare and trying to take care of those people who need prescription drugs but cannot afford it.

Our focus should be on those who cannot afford it rather than coopting this whole field and trying to take care of everybody. A government that tries to do everything for everybody is not going to be able to do anything for anybody in the long run as this economic insanity takes hold and has its effect on our society. We are going to make our problems for insurance worse if we do not try to make our system more effective and cost effective.

One last note about health care in America. In recent years, Americans have witnessed an explosion of alternative health care health-related nutrition, acupuncture, chiropractic, vitamins, exercise, mental health programs that are based on self-help and individual responsibility. These are exciting, new alternatives; and most of them are not even covered by insurance, much less being paid for by the tax dollars. The American people need to have these available to them, these and other vehicles for a good healthy life; and we must use mass communications and the Internet to make sure our people know what their alternatives are, but instead, now what are we focusing on here in the Federal Government, instead we are just trying to focus on spending more money.

New opportunities are needed. We do not need to just regulate these new approaches and these new things that people can do for health care. We do not need to regulate it, control it or ration it. We need, like my legislation will do, is to open up new opportunities. My legislation is based on the principles of freedom and the incentives of the market. This at least will have to be part of the solution, if not the entire solution, we seek to the challenges we face today.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. GINNY BROWN-WAITE of Florida (at the request of Mr. DELAY) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. HINCHEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. KILPATRICK, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. HOEFFEL, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. WEXLER, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

Mr. BALLANCE, for 5 minutes, today.

Mr. SANDLIN, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. HONDA, for 5 minutes, today.

Mr. ROSS, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. DAVIS of Alabama, for 5 minutes, today.

Mr. THOMPSON of Mississippi, for 5 minutes, today.

Mr. TURNER of Texas, for 5 minutes, today.

Mr. TANNER, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

(The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. KING of Iowa, for 5 minutes, today.

Mr. SHUSTER, for 5 minutes, today.

Mr. NUSSLE, 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. 239. An act to amend the Public Health Service Act to add requirements regarding trauma care, and for other purposes; to the Committee on Energy and Commerce.

S. 1157. An act to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes; to the Committee on House Administration; in addition to the Committee on Transportation and Infrastructure 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.

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until tomorrow, Wednesday, June 25, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2800. A letter from the Director, Regulatory Review Group, FSA, Department of Agriculture, transmitting the Department's final rule—2002 Marketing Quota and Price Support for Flue-Cured Tobacco (RIN: 0560–AG60) received June 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2801. A letter from the Secretary, Bureau of Consumer Protection, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (RIN: 3084–AA74) received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

2802. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question covering the period April 1, 2003 through May 31, 2003, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

2803. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Export Administration Regulations: Encryption Clarifications and Revisions [Docket No. 030529136–3136–01] (RIN: 0694–AC78) received June 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2804. A letter from the Assistant Secretary for Export Administration, Department of

Commerce, transmitting the Department's final rule— Implementation of the Understandings Reached at the June 2002 Australia Group (AG) Plenary Meeting and the AG Intersessional Decision on Cross Flow Filtration Equipment—Chemical and Biological Weapons Controls in the Export Administration Regulations [Docket No. 030523133–3133–01] (RIN: 0694–AC70) received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

2805. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species (HMS); Fishing Vessel Permits; Charter Boat Operations; Temporary Rule [Docket No. 020325070–3146–04; I.D. 071299C] (RIN: 0648–AM91) received June 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2806. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Adminstration's final rule—Fisheries of the Northeastern United States; Atlantic Mackerel, Squid and Butterfish Fisheries; Framework Adjustment 3 [Docket No. 030314060–3126–02; I.D. 021003E] (RIN: 0648–AQ57) received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2807. A letter from the Assistant Administrator, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Atlantic Highly Migratory Species; Incidental Catch Requirements of Bluefin Tuna [Docket No. 001113318–3128–03; I.D. 110200D] (RIN: 0648–AO75) received June 12, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2808. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area [Docket No. 021212307–3037–02; I.D. 06030F] received June 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

2809. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety and Security Zones; First Lady's Visit, Boston, MA [CGD01–02–127] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2810. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety and Security Zones; Presidential Visit, Seaport Hotel/World Trade Center, South Boston, MA [CGD01–02–119] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2811. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Savannah River, Savannah, GA [COTP Savannah 02–134] (RIN: 2115–AE46) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2812. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Northeast Cape Fear River, Wilmington, North Carolina [COTP Wilmington 02–001] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2813. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; TUG NARRAGANSETT and Tow TRIPOLI, San Francisco Bay, CA [COTP San Francisco Bay 02–020] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2814. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Ohio River, Miles 468.5 to 473.0, Cincinnati, OH [COTP Louisville 02–008] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2815. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Elk River Miles 0.00 to 2.0, Charleston, WV [COTP Huntington 02–010] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2816. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone Regulations, Motor Vessel BRIGHT STATE, Puget Sound, Washington [CGD13–02–019] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2817. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Captain of the Port Chicago Zone, Lake Michigan [CGD 09–02–525] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2818. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Fore River and Long Creek, Portland, ME [CGD01–02–125] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2819. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Verrazano Narrows Bridge, New York [CGD01–02–126] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2820. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Port of New York/New Jersey [CGD01–02–149] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2821. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Chicago River, Chicago, IL [CGD09–02–524] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2822. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Diego Bay, San Diego, CA [COTP San Diego 02–020] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2823. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; San Francisco Bay, California [COTP San Francisco Bay; 02–021] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2824. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Las Mareas Harbor, Guayama, Puerto Rico [COTP San Juan 02–126] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2825. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone, York River, West Point, VA [CGD05–02–081] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2826. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Norfolk Harbor Entrance Reach Channel, Chesapeake Bay, Hampton Roads, VA [CGD05–02–098] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2827. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Closure of all navigable waterways to all marine traffic in the Captain of the Port (COTP) Port Arthur Area of Responsibility (AOR) as defined in 33 CFR 3.40–20 [COTP Port Arthur 02–007] (RIN: 2115–AA97) received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2828. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Regulated Navigation Area in Hampton Roads, VA [CGD05–02–099] (RIN: 1625–AA11 (Formerly RIN: 2115–AE84)) received June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2829. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Manasquan River, NJ [CGD05–02–054] (RIN: 1625–AA09) received June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2830. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulation; Alabama River at Coy, AL [CGD08–03–018] (RIN: 1625–AA09) received June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2831. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting The Department's final rule—Safety Zone; Detroit River, Detroit, MI [CGD09–03–216] (RIN: 1625–AA00) received June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2832. A letter from the Chief, Regulations and Administrative Law, USCG, Department

of Homeland Security, transmitting the Department's final rule—Safety Zones, Security Zones and Regulated Navigation Areas [USCG–2003–15023] received May 15, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2833. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30362; Amdt. No. 441] received June 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2834. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30354; Amdt. No. 440] received June 19, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2835. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Interest Rate (Rev. Rul. 2003–63) received June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2836. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Automatic Extension of Time to File Certain Information Returns and Exempt Organization Returns [TD 9061] (RIN: 1545–BB55) received June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2837. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Coordination of sections 755 and 1060; Allocation of basis adjustments among partnership assets and application of the residual method to certain partnership transactions [TD 9059] (RIN: 1545–AX18) received June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

2838. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Minimum Vesting Standards (Rev. Rul. 2003–65) Recieved June 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 295. Resolution providing for consideration of the bill (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, and for other purposes (Rept. 108–176). 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. EDWARDS (for himself, Mr. EVANS, Mr. SKELTON, Mr. MARSHALL, and Mr. FILNER):

H.R. 2569. A bill to improve benefits for members of the Armed Forces and veterans and for their dependents and survivors; to the Committee on Armed Services, and in addition to the Committees on Veterans' Affairs, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEFAZIO (for himself, Mr. MARKEY, Mr. FRANK of Massachusetts, Mr. CARDIN, Ms. SLAUGHTER, Mrs. CHRISTENSEN, Mr. ETHERIDGE, Ms. DELAURO, Mr. CASE, Mr. GRIJALVA, Mr. MCDERMOTT, Mr. CROWLEY, Mr. BELL, Mr. BALLANCE, Mr. RAHALL, Mr. MCGOVERN, Ms. LINDA T. SANCHEZ of California, Mr. DOYLE, Ms. JACKSON-LEE of Texas, Mr. STARK, Ms. CARSON of Indiana, Mrs. MALONEY, Mr. HASTINGS of Florida, Ms. SOLIS, Ms. HOOLEY of Oregon, Mr. SANDERS, Mr. LIPINSKI, Mr. COSTELLO, Mr. GUTIERREZ, Mr. GEORGE MILLER of California, Mr. FARR, Mr. THOMPSON of California, Mr. KUCINICH, Mrs. DAVIS of California, Mr. BLUMENAUER, Mr. HINCHEY, Mr. CAPUANO, Mr. TIERNEY, Mr. KENNEDY of Rhode Island, Mr. HONDA, Ms. BERKLEY, Ms. KAPTUR, and Ms. BALDWIN):

H.R. 2570. A bill to direct the Secretary of Homeland Security to reimburse States for direct expenses and losses incurred by State and local government entities during the effective period of a high threat condition (Code Orange) or severe threat condition (Code Red) declared by the Secretary of Homeland Security, that are in excess of normal operating expenses; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. QUINN, and Ms. CORRINE BROWN of Florida):

H.R. 2571. A bill to provide for the financing of high-speed rail infrastructure, and for other purposes; to the Committee on Transportation and Infrastructure, 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. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. QUINN, and Ms. CORRINE BROWN of Florida):

H.R. 2572. A bill to authorize appropriations for the benefit of Amtrak for fiscal years 2004 through 2006, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. LATOURETTE (for himself, Ms. NORTON, Mr. YOUNG of Alaska, and Mr. OBERSTAR):

H.R. 2573. A bill to amend title 40, United States Code, to make reforms in the management and development of Federal real property; to the Committee on Transportation and Infrastructure.

By Mr. KUCINICH (for himself, Mr. CONYERS, Mr. SERRANO, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. SANDERS, Ms. LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BALLANCE, Ms. NORTON, Mr. ACEVEDO-VILA, Mr. CUMMINGS, Ms. CARSON of Indiana, Mr. RUSH, Mr. LANGEVIN, Mr. CLAY, Ms. WOOLSEY, Mr. STARK, Mr. FILNER, Mr. OWENS, Ms. WATSON, Mr. DAVIS of Illinois, Mr. HASTINGS of Florida, Mr. RANGEL, Ms. WATERS, Mr. DELAHUNT, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. CLYBURN, Mr. JACKSON of Illinois, Mr. HINCHEY, Ms. SLAUGHTER, Ms. MAJETTE, Mr. WATT, Mr. FATTAH, Ms. KILPATRICK, Mr. PAYNE, and Ms. BALDWIN):

H.R. 2574. A bill to abolish the death penalty under Federal law; to the Committee on the Judiciary.

By Mr. BAKER (for himself, Mr. OSE, Mr. BACHUS, Mr. KING of New York, Mr. LEACH, Mr. SHAYS, Mr. LINDER, Ms. GINNY BROWN-WAITE of Florida, Mr. COX, Mr. RYAN of Wisconsin, Mr. GARY G. MILLER of California, Mr. RENZI, Mr. MANZULLO, Ms. HART, Mr. HOEKSTRA, Mr. JONES of North Carolina, Mr. TOOMEY, Mr. HENSARLING, Mr. GILLMOR, Mr. LUCAS of Oklahoma, and Ms. HARRIS):

H.R. 2575. A bill to reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes; to the Committee on Financial Services.

By Mr. BRADY of Pennsylvania (for himself, Mr. EVANS, Mr. WELDON of Pennsylvania, Mr. PLATTS, Mr. FATTAH, Mr. ABERCROMBIE, Mr. LARSON of Connecticut, Mr. CAPUANO, Mr. PASCRELL, Mr. ISRAEL, Mr. MARKEY, Ms. KAPTUR, Mr. MCGOVERN, Mr. HOEFFEL, Mr. TOWNS, Mr. FILNER, Mr. ACEVEDO-VILA, Mr. FROST, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Mr. LIPINSKI, Mrs. CHRISTENSEN, Mrs. DAVIS of California, Mrs. TAUSCHER, Mr. MEEHAN, Mr. HILL, Mr. JEFFERSON, Mr. KANJORSKI, Mr. MURTHA, Mr. DOYLE, Mr. HOLDEN, Mr. RYAN of Ohio, and Mr. WU):

H.R. 2576. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to enhance the protection of credit ratings of active duty military personnel who are activated for military service; to the Committee on Veterans' Affairs.

By Mr. BURGESS (for himself and Mr. BISHOP of Utah):

H.R. 2577. A bill to require the Comptroller General to conduct a study and submit to Congress a report on price controls of foreign governments on pharmaceuticals; 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. BURR (for himself, Mr. BARTON of Texas, Mr. BUYER, Mr. NORWOOD, Mr. SHADEGG, Mr. AKIN, Mr. BARTLETT of Maryland, Mr. BURGESS, Mrs. CUBIN, Mr. HOEKSTRA, Mr. KING of Iowa, Mr. KLINE, Mr. OTTER, Mr. PITTS, Mr. TOOMEY, Mr. WELDON of Florida, Mr. GARRETT of New Jersey, and Mr. JONES of North Carolina):

H.R. 2578. A bill to amend title XVIII of the Social Security Act to establish a voluntary Medicare outpatient prescription drug discount and security program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP (for himself, Mr. POMEROY, Mr. GOODLATTE, Mr. BLUNT, Mr. MCINNIS, Mr. HOUGHTON, Mr. PETERSON of Minnesota, Mr. BOEHNER, Mr. HOLDEN, Mr. GUTKNECHT, Mr. UPTON, Mr. MORAN of Kansas, Mr. JANKLOW, Mr. ROSS, Mr. REHBERG, Mrs. MILLER of Michigan, Mr. MANZULLO, Mr. BEREUTER, Mr. BURNS, Mr. HOEKSTRA, Mr. ROGERS of Michigan, Mr. GRAVES, Mr. NUNES, Mr. SCOTT of Georgia, Mr. KING of Iowa, Mr. CASE, Mr. MCHUGH, Mr. HAYES, Mr. OSE,

Mr. POMBO, Mr. SHIMKUS, Mr. SMITH of Michigan, Mr. LEWIS of Kentucky, and Mr. RAMSTAD):

H.R. 2579. A bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. CLYBURN:

H.R. 2580. A bill to establish the Congaree Swamp National Park in the State of South Carolina, and for other purposes; to the Committee on Resources.

By Mrs. JO ANN DAVIS of Virginia:

H.R. 2581. A bill to authorize State and local governments to petition the Administrator of the Environmental Protection Agency for enforcement of certain violations of the Solid Waste Disposal Act, and to require the establishment of a manifest system for the interstate transportation of solid waste; to the Committee on Energy and Commerce.

By Mr. DEUTSCH:

H.R. 2582. A bill to amend the State eligibility provisions for grants under section 106 of the Child Abuse Prevention and Treatment Act to ensure that State foster care agencies meet certain requirements if the agencies have knowledge that foster children under the responsibility of the State are missing; to the Committee on Education and the Workforce.

By Mr. DUNCAN:

H.R. 2583. A bill to amend title II of the Social Security Act to allow remarried widows, widowers, and surviving divorced spouses to become or remain entitled to widow's or widower's insurance benefits if the prior marriage was for at least 10 years; to the Committee on Ways and Means.

By Mr. FALEOMAVAEGA (for himself, Mr. GALLEGLY, Mr. BURTON of Indiana, and Ms. BORDALLO):

H.R. 2584. A bill to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship; to the Committee on Resources.

By Mr. FRANK of Massachusetts (for himself, Mr. CANNON, Mr. FILNER, and Mr. FROST):

H.R. 2585. A bill to amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, and for other purposes; to the Committee on the Judiciary.

By Mr. GREEN of Wisconsin:

H.R. 2586. A bill to provide for the conveyance of certain National Forest System lands to the towns of Laona and Wabeno, Wisconsin; to the Committee on Agriculture.

By Mr. HOLDEN (for himself, Mr. BOYD, Mr. ENGEL, Mr. HINCHEY, Mr. MCGOVERN, Mr. REYES, Mr. GILLMOR, Mr. FROST, Mr. UPTON, Mr. SIMMONS, and Mr. WELDON of Pennsylvania):

H.R. 2587. A bill to amend title 10, United States Code, to establish a combat badge for helicopter medical evacuation ambulance (Medevac) pilots and crews; to the Committee on Armed Services.

By Mr. KING of Iowa:

H.R. 2588. A bill to establish under the Medicare Program under title XVIII of the Social Security Act incentives to health care providers for delivering high-quality, cost-effective health care to Medicare beneficiaries; to the Committee on Ways and Means.

By Mr. LUCAS of Kentucky:

H.R. 2589. A bill to amend title 40, United States Code, to add Nicholas and Robertson Counties, Kentucky, to the Appalachian region; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE:

H.R. 2590. A bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. PORTER:

H.R. 2591. A bill to amend the Internal Revenue Code of 1986 to provide for Small Business Protection Accounts, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Small Business, 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. PUTNAM (for himself, Mr. CARDOZA, Mr. BACA, Mr. NUNES, Mr. FILNER, Mr. FOLEY, Mr. RADANOVICH, Mr. BOYD, Ms. HARRIS, and Mr. POMBO):

H.R. 2592. A bill to promote improved nutrition for needy Americans, including women, infants, children, and students, by revising and enhancing Federal nutrition programs to incorporate a greater role for fruits, vegetables, and 100 percent juice products; to the Committee on Education and the Workforce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH (for himself, Ms. ROS-LEHTINEN, and Ms. HARMAN):

H.R. 2593. A bill to provide veterans benefits to certain individuals who serve in the United States merchant marine during a period of war; to the Committee on Veterans' Affairs.

By Mr. REYES (for himself, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. FILNER, and Mr. HINOJOSA):

H.R. 2594. A bill to establish an Adult Job Corps demonstration program for the United States-Mexico border area; to the Committee on Education and the Workforce.

By Mr. SAM JOHNSON of Texas (for himself, Mr. CRANE, Mr. LINDER, Mr. TAUZIN, Mr. DOOLITTLE, and Mr. CULBERSON):

H.J. Res. 61. A joint resolution proposing an amendment to the Constitution of the United States to abolish the Federal income tax; to the Committee on the Judiciary.

By Mr. KOLBE (for himself, Mr. PASTOR, Mr. HAYWORTH, Mr. SHADEGG, Mr. FLAKE, Mr. FRANKS of Arizona, Mr. GRIJALVA, and Mr. RENZI):

H. Con. Res. 227. Concurrent resolution expressing profound sorrow for the death of the Honorable Bob Stump and gratitude to the Honorable Bob Stump for serving the United States and the State of Arizona with honor and distinction in his 26 years as a Member of the House of Representatives; to the Committee on House Administration.

By Ms. MILLENDER-MCDONALD:

H. Con. Res. 228. Concurrent resolution expressing the sense of Congress that the National Family Caregiver Support Program should be fully funded to continue efforts to provide relief and necessary services to individuals who perform informal or unpaid care for the elderly and care for children under 18 years of age; to the Committee on Education and the Workforce.

By Mr. PAYNE:

H. Con. Res. 229. Concurrent resolution acknowledging the strong relationship between the United States and the Republic of Mali and recognizing Mali's role in building a participative democracy, providing leadership through conflict resolution and peacekeeping activities, and supporting the fight against terrorism; to the Committee on International Relations.

By Mr. LANTOS (for himself, Mr. DELAY, Ms. PELOSI, and Mr. HYDE):

H. Res. 294. A resolution condemning the terrorism inflicted on Israel since the Aqaba Summit and expressing solidarity with the Israeli people in their fight against terrorism; to the Committee on International Relations.

By Mr. KLECZKA (for himself, Mr. OBEY, Mr. SENSENBRENNER, Ms. BALDWIN, Mr. PETRI, Mr. KIND, Mr. RYAN of Wisconsin, Mr. GREEN of Wisconsin, Mr. PLATTS, Mr. GRAVES, Mr. DINGELL, Mr. LATOURETTE, Mr. DAVIS of Illinois, Mr. ROGERS of Alabama, Mr. FRANKS of Arizona, Mr. GIBBONS, and Mr. SAM JOHNSON of Texas):

H. Res. 296. A resolution recognizing the 100th anniversary of the founding of the Harley-Davidson Motor Company, which has been a significant part of the social, economic, and cultural heritage of the United States and many other nations and a leading force for product and manufacturing innovation throughout the 20th century; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 110: Mr. KING of Iowa, Mr. OTTER, Mr. BARTLETT of Maryland, Mr. PAUL, Mr. LEWIS of Kentucky, Mr. SIMPSON, Mr. GOODE, Mr. DOOLITTLE, and Mr. AKIN.

H.R. 111: Mrs. MILLER of Michigan and Mrs. MUSGRAVE.

H.R. 125: Mr. VAN HOLLEN.

H.R. 135: Mr. CANTOR and Mr. GOODLATTE.

H.R. 141: Mr. HAYWORTH.

H.R. 188: Mr. FRANK of Massachusetts.

H.R. 236: Ms. LOFGREN, Mr. GREEN of Texas, Mr. CARDOZA, Mr. RODRIGUEZ, and Mr. SANDLIN.

H.R. 303: Mr. RUPPERSBERGER, Mr. LANTOS, and Mr. HOEKSTRA.

H.R. 313: Mr. MURTHA.

H.R. 371: Mr. CAPUANO.

H.R. 372: Mr. DELAHUNT.

H.R. 375: Mr. ADERHOLT and Mrs. KELLY.

H.R. 438: Mr. GARRETT of New Jersey and Mr. NUNES.

H.R. 466: Mr. WU.

H.R. 501: Mr. SCHIFF.

H.R. 569: Mr. REYNOLDS and Mr. MEEHAN.

H.R. 571: Mr. OTTER.

H.R. 671: Mr. TERRY.

H.R. 678: Mr. LEWIS of Georgia.

H.R. 687: Mr. CRENSHAW and Mr. CULBERSON.

H.R. 716: Mr. RAHALL and Ms. KILPATRICK.

H.R. 721: Mr. HINOJOSA and Mr. LUCAS of Kentucky.

H.R. 738: Mr. CARDIN, Mr. GEORGE MILLER of California, Ms. SOLIS, Mr. PAYNE, and Mr. SANDERS.

H.R. 765: Mr. MANZULLO.

H.R. 767: Mr. BURR.

H.R. 779: Mr. STARK.

H.R. 785: Mr. LUCAS of Oklahoma, Mr. ABERCROMBIE, Ms. WOOLSEY, and Mr. DAVIS of Alabama.

H.R. 786: Mr. RYAN of Wisconsin.

H.R. 790: Mr. LUCAS of Oklahoma.

H.R. 792: Mr. WEINER, Mr. CUMMINGS, Mr. WAMP, Mr. RAMSTAD, Mr. MCGOVERN, Ms. NORTON, Mr. MORAN of Virginia, Mr. BACHUS, Mr. ISRAEL, Mr. CLAY, Mr. SCOTT of Georgia, Mr. PICKERING, Mrs. MUSGRAVE, Mr. COOPER, Mr. WICKER, Mr. ANDREWS, Ms. BALDWIN, and Mr. WELDON of Pennsylvania.

H.R. 811: Mr. UDALL of New Mexico and Mr. BARTON of Texas.

H.R. 876: Mr. COLLINS, Mr. CHOCOLA, Mr. UDALL of New Mexico, and Mr. LAMPSON.

H.R. 882: Mr. SMITH of New Jersey.

H.R. 898: Ms. PRYCE of Ohio, Mr. HOEFFEL, Mr. NADLER, Ms. LINDA T. SANCHEZ of California, Mr. RUSH, Ms. BALDWIN, Mr. MOORE, and Mr. BELL.

H.R. 906: Mr. PORTER, Mr. SULLIVAN, Mr. HAYES, and Mr. BURGESS.

H.R. 919: Mr. PETRI.

H.R. 936: Ms. BALDWIN.

H.R. 965: Mr. ENGEL and Mr. GEPHARDT.

H.R. 997: Mr. DEMINT and Mrs. BONO.

H.R. 1068: Ms. KILPATRICK, Mr. SENSENBRENNER, Mr. GREEN of Wisconsin, Mr. SIMMONS, and Mr. DOYLE.

H.R. 1078: Mr. WILSON of South Carolina, Mr. OSE, Mr. GARRETT of New Jersey, Mr. KLINE, and Mr. LARSEN of Washington.

H.R. 1093: Mr. BERMAN, Mr. INSLEE, Mr. NEY.

H.R. 1105: Mr. JOHNSON of Illinois.

H.R. 1125: Mr. BACHUS, Mr. SCOTT of Georgia, Mr. CLAY, Mr. BISHOP of Utah, Mr. WALSH, Mrs. BLACKBURN, and Mr. KIND.

H.R. 1130: Mr. JOHNSON of Illinois.

H.R. 1167: Mr. FILNER and Mr. MICHAUD.

H.R. 1185: Mr. LARSON of Connecticut.

H.R. 1225: Mr. SIMMONS and Mr. STUPAK.

H.R. 1233: Mr. MANZULLO.

H.R. 1268: Mr. HINOJOSA.

H.R. 1305: Mr. LINDER, Mrs. CAPITO, Mr. OXLEY, and Mr. RYAN of Wisconsin.

H.R. 1306: Mr. SPRATT.

H.R. 1310: Mr. JOHN.

H.R. 1336: Mr. BURR, Ms. GINNY BROWN-WAITE of Florida, and Mr. KING of New York.

H.R. 1340: Mr. VAN HOLLEN.

H.R. 1348: Mr. BAIRD.

H.R. 1351: Mr. LARSON of Connecticut.

H.R. 1359: Mrs. CHRISTENSEN.

H.R. 1376: Mr. MCGOVERN.

H.R. 1421: Mr. POMEROY and Mr. BACA.

H.R. 1473: Ms. LEE.

H.R. 1489: Mr. PETRI, Mr. KING of Iowa, Mr. HENSARLING, and Mr. ALEXANDER.

H.R. 1519: Mr. MATSUI.

H.R. 1543: Mr. MALONEY.

H.R. 1565: Mr. OWENS.

H.R. 1622: Mr. WELDON of Pennsylvania and Mr. MCHUGH.

H.R. 1628: Ms. JACKSON-Lee of Texas, Mr. OXLEY, Mr. RADANOVICH, Mr. RANGEL, Mr. FOLEY, and Mrs. BONO.

H.R. 1655: Ms. ROS-LEHTINEN.

H.R. 1660: Mr. RAMSTAD and Mr. CASE.

H.R. 1700: Mr. TOM DAVIS of Virginia, Ms. LORETTA SANCHEZ of California, and Mr. MCCOTTER.

H.R. 1708: Mr. MEEK of Florida.

H.R. 1734: Mr. STENHOLM, Mr. CLYBURN, Mr. PRICE of North Carolina, Mr. KILDEE, Mr. BOYD, Mr. RUSH, Mr. ANDREWS, and Mr. DAVIS of Illinois.

H.R. 1749: Mr. PAYNE, Mr. CANNON, Mr. MICHAUD, and Mr. ISAKSON.

H.R. 1767: Mr. CHOCOLA, Mr. MORAN of Kansas, Mr. PLATTS, Mr. SHUSTER, Mr. RYAN of Wisconsin, Mr. MARIO DIAZ-BALART of Florida, and Mr. PUTNAM.

H.R. 1813: Mr. BERMAN, Mr. HASTINGS of Florida, Ms. NORTON, Mr. OBERSTAR, Mrs. MALONEY, and Mr. OWENS.

H.R. 1858: Mr. STRICKLAND, Mr. DEUTSCH, Mr. RAMSTAD, Mr. SHAYS, and Mrs. JONES of Ohio.

H.R. 1884: Mrs. MYRICK.

H.R. 1890: Mr. LEWIS of Kentucky.

H.R. 1900: Mr. THOMAS, Mr. KUCINICH, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. VISCLOSKY, Ms. LINDA T. SANCHEZ of California, Ms. WATERS, Mr. ACEVEDO-VILA, Mr. BARTLETT of Maryland, Mr. SCOTT of Virginia, Mr. CHOCOLA, Mrs. CAPPS, Mr. DUNCAN, Mr. LANTOS, Ms. HARMAN, Mr. SIMPSON, Mr. ENGLISH, Mr. RAMSTAD, Ms. KILPATRICK, and Mr. CANNON.

H.R. 1902: Mr. TERRY.

H.R. 1905: Mr. WEINER.

H.R. 1907: Mr. BLUNT.

H.R. 1910: Mr. CARSON of Oklahoma, Ms. HARMAN, Ms. HOOLEY of Oregon, Mr. STUPAK, and Mr. SKELTON.

H.R. 1930: Mr. OWENS.

H.R. 1934: Mr. SMITH of Washington.

H.R. 1951: Mr. CAPUANO, Mr. CARSON of Oklahoma, Mr. GORDON, and Mr. BISHOP of Georgia.

H.R. 1958: Mrs. MALONEY.

H.R. 1963: Mr. COLE.

H.R. 1991: Mr. MCDERMOTT.

H.R. 1998: Mr. CARSON of Oklahoma and Ms. CARSON of Indiana.

H.R. 2020: Mr. COLE, Ms. CORRINE BROWN of Florida, and Mr. ETHERIDGE.

H.R. 2022: Mr. DEUTSCH, Mr. OWENS, and Mr. WICKER.

H.R. 2028: Mr. GORDON.

H.R. 2035: Mrs. MCCARTHY of New York, Mr. HINOJOSA, and Mr. MICHAUD.

H.R. 2068: Mr. ABERCROMBIE, Ms. ESHOO, Mr. WOLF, Mr. BOEHLERT, Mr. FROST, Mr. CARSON of Oklahoma, Mr. WEXLER, and Mr. ENGEL.

H.R. 2069: Mr. ABERCROMBIE, Ms. ESHOO, Mr. WOLF, Mr. BOEHLERT, Mr. FROST, Mr. CARSON of Oklahoma, Mr. WEXLER, and Mr. ENGEL.

H.R. 2079: Mr. GILCHREST.

H.R. 2118: Mr. BISHOP of Georgia.

H.R. 2124: Mr. SANDERS, Mr. COOPER, Mr. WEXLER, and Mr. ROTHMAN.

H.R. 2138: Mr. BAKER.

H.R. 2157: Mr. STRICKLAND and Mr. FROST.

H.R. 2190: Mr. BRADY of Texas, Mr. GREEN of Wisconsin, and Mr. BONNER.

H.R. 2193: Mr. OWENS and Ms. WATSON.

H.R. 2205: Ms. JACKSON-LEE of Texas, Mr. BLUMENAUER, Ms. LEE, Mr. SABO, Mr. JOHN, Ms. UDALL of Colorado, and Mr. MCDERMOTT.

H.R. 2236: Mr. GRIJALVA and Mr. LANTOS.

H.R. 2239: Mr. BROWN of Ohio, Mr. FRANK of Massachusetts, Ms. ESHOO, Ms. SCHAKOWSKY, Mr. HOEFFEL, Mr. SCOTT of Virginia, Mr. STRICKLAND, and Mr. OWENS.

H.R. 2246: Mr. PETERSON of Minnesota.

H.R. 2249: Mr. GIBBONS and Mr. THOMPSON of California.

H.R. 2256: Mr. WOLF.

H.R. 2264: Ms. DELAURO.

H.R. 2295: Mr. OWENS.

H.R. 2297: Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. RODRIGUEZ, and Mr. FILNER.

H.R. 2303: Mr. AKIN, Mr. LEWIS of Kentucky, Mr. FEENEY, Mr. BARRETT of South Carolina, Mr. JONES of North Carolina, Mr. HERGER, and Mr. KINGSTON.

H.R. 2310: Mrs. CHRISTENSEN, Mrs. CAPPS, Mr. KILDEE, Mr. FARR, and Mr. SPRATT.

H.R. 2318: Mr. LIPINSKI, Mr. CASE, Mr. KILDEE, and Mr. SCOTT of Virginia.

H.R. 2333: Mr. GOODE.

H.R. 2346: Mr. TANCREDO.

H.R. 2351: Mr. BARRETT of South Carolina.

H.R. 2360: Mr. CUNNINGHAM.

H.R. 2372: Mrs. JONES of Ohio, Mr. DAVIS of Alabama, Mr. GEORGE MILLER of California, Ms. SLAUGHTER, and Ms. NORTON.

H.R. 2377: Ms. BALDWIN.

H.R. 2379: Mr. MCINTYRE.

H.R. 2382: Mr. SMITH of Washington.

H.R. 2385: Mr. ACEVEDO-VILA.

H.R. 2399: Mr. KOLBE and Mr. JONES of North Carolina.

H.R. 2418: Mr. FROST.

H.R. 2426: Mr. HOEFFEL, Mr. FROST, Mr. KENNEDY of Rhode Island, and Ms. CARSON of Indiana.

H.R. 2427: Ms. DELAURO, Mr. TOOMEY, and Mr. VAN HOLLEN.

H.R. 2446: Mr. GOODLATTE, Mr. BURR, and Mr. MANZULLO.

H.R. 2448: Mr. RAMSTAD.

H.R. 2462: Mr. MICHAUD, Mr. MILLER of North Carolina, Mr. WYNN, Mr. THOMPSON of California, Mr. FILNER, Ms. KAPTUR, Mr. RYAN of Ohio, Ms. MILLENDER-MCDONALD, Ms. JACKSON-LEE of Texas, and Mr. MCGOVERN.

H.R. 2464: Mr. WEXLER.

H.R. 2475: Mr. PAYNE and Mr. ANDREWS.

H.R. 2488: Mr. ABERCROMBIE.

H.R. 2494: Mr. MEEKS of New York and Mr. LEVIN.

H.R. 2497: Ms. DELAURO, Mr. MEEHAN, and Mr. EVANS.

H.R. 2498: Mr. KILDEE.

H.R. 2505: Mr. MCDERMOTT.

H.R. 2516: Mrs. MUSGRAVE.

H.R. 2542: Mr. GARRETT of New Jersey.

H.R. 2545: Mr. FROST.

H.R. 2546: Mr. RAHALL and Mr. DEFAZIO.

H.R. 2550: Mr. BEREUTER and Mr. MICA.

H.R. 2556: Mr. FLAKE, Mr. PUTNAM, Mr. WICKER, Mr. BURTON of Indiana, Mr. SCHROCK, and Mr. BARTON of Texas.

H.R. 2568: Mr. ACEVEDO-VILÁ.

H.J. Res. 56: Mr. KING of Iowa, Mr. ISAKSON, Mr. SOUDER, and Mr. KENNEDY of Minnesota.

H. Con. Res. 30: Mr. CUMMINGS and Mr. BAIRD.

H. Con. Res. 37: Mr. RANGEL.

H. Con. Res. 49: Mr. BEAUPREZ.

H. Con. Res. 67: Mr. MCNULTY, Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, Ms. LEE, Mr. SHAYS, Ms. NORTON, Ms. KAPTUR, Mr. OWENS, Mr. REYES, Mr. BOSWELL, Mr. BERMAN, Mr. CARSON of Oklahoma, Ms. MILLENDER-MCDONALD, Mr. LANTOS, and Mr. EMANUEL.

H. Con. Res. 107: Mr. LANTOS.

H. Con. Res. 126: Mr. HAYWORTH.

H. Con. Res. 192: Mr. WEXLER, Mr. CARDOZA, and Mr. PITTS.

H. Con. Res. 195: Mr. DAVIS of Illinois.

H. Con. Res. 202: Mr. ENGEL and Mr. DEUTSCH.

H. Con. Res. 217: Mr. BROWN of Ohio, Mr. NADLER, Mr. FROST, Mr. SIMMONS, and Mr. MATSUI.

H. Con. Res. 223: Ms. JACKSON-LEE of Texas, Mr. WATT, Mr. ISRAEL, Ms. SOLIS, Ms. KAPTUR, and Mr. BERMAN.

H. Res. 60: Mr. UDALL of New Mexico.

H. Res. 103: Mr. ENGLISH.

H. Res. 136: Mr. RUSH.

H. Res. 198: Mrs. MILLER of Michigan.

H. Res. 246: Mr. KUCINICH and Ms. SLAUGHTER.

H. Res. 259: Ms. LEE.

H. Res. 285: Mr. NADLER, Mr. WYNN, Ms. HART, Mr. WEXLER, Mr. BERMAN, Mr. SHAYS, Mrs. MALONEY, Mr. CARDOZA, Mr. ANDREWS, Mr. ADERHOLT, Mr. FOSSELLA, Mr. REYES, and Mr. BEAUPREZ.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1589

OFFERED BY: MRS. CAPITO

AMENDMENT NO. 1: Strike all after the enacting clause and insert the following new text:

SECTION 1. GRANTS FOR PRESERVATION OF HISTORIC COURTHOUSES.

(a) IN GENERAL.—The Secretary of the Interior may make grants to States to distribute the grant funds to units of local government for activities to preserve eligible historic courthouses. Such activities shall meet applicable Secretarial Standards for Rehabilitation and may include period restoration, upgrades to current legal codes and requirements, and architecturally compatible additions and expansions. Each State which accepts a grant under this subsection shall determine the State agency responsible for compliance with the requirements of this section and for the administration of funds provided under this section.

(b) REQUIREMENTS FOR ELIGIBLE HISTORIC COURTHOUSE.—For the purposes of this section, an eligible historic courthouse is a courthouse or courthouse facility—

(1) that is eligible to be listed on or is listed on the National Register of Historic Places;

(2) that is not less than 50 years old; and

(3) regarding which a grant under this section has not been previously awarded.

(c) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary may waive the requirement in subsection (b)(2).

(d) REQUIRED MATCH.—As a condition of providing a grant under this section, the Secretary shall require the recipient of the grant to provide matching funds according to a 1-to-1 ratio of Federal-to-recipient contributions. Recipient matching funds—

(1) must be from non-Federal sources; and

(2) may be made in the form of in-kind contributions of goods or services.

(e) LIMIT ON ADMINISTRATIVE USE OF FUNDS.—Not more than 10 percent of funds made available to a State under this section may be used by the State for administrative purposes.

(f) REPORT.—Five years after the date that funds are first made available for this section, the Secretary shall submit to Congress a report describing activities undertaken with grants awarded under this section.

(g) STATE DEFINED.—For the purposes of this section, the term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.

H.R. 2417

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 1: At the end of title III add the following new section:

SEC. 345. STUDY ON PROVIDING ACCESS TO STATE AND LOCAL LAW ENFORCEMENT TO CLASSIFIED INFORMATION.

(a) IN GENERAL.—The Director of Central Intelligence shall conduct a study to determine the feasibility of providing security clearances to specified State and local law enforcement personnel for access to classified information in the possession of agencies and departments of the United States that relate to homeland security and preventing terrorist attacks against the United States.

(b) SPECIFIED OFFICIALS.—For purposes of subsection (a), the Director shall, in consultation with appropriate State and local officials, establish criteria for the selection of State and local law enforcement personnel for such security clearances.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Director shall submit to Congress a report on the study conducted under subsection (a).

H.R. 2417

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 2: Add at the end the following new title:

TITLE VI—NATIONAL COMMISSION ON INTELLIGENCE CAPABILITIES AND ACTIVITIES

SEC. 601. ESTABLISHMENT.

There is established a commission to be known as the ''National Commission on Weapons of Mass Destruction in Iraq'' (hereinafter in this title referred to as the ''Commission'').

SEC. 602. DUTIES OF THE COMMISSION.

The Commission shall review and assess the knowledge in the possession of the executive branch with respect to the status of and threats posed by Iraq's weapons of mass destruction programs before the commencement of Operation Iraqi Freedom.

SEC. 603. COMPOSITION AND OPERATION OF COMMISSION.

(a) NUMBERS AND APPOINTMENT.—The Commission shall be composed of 10 members appointed by the Director of Central Intelligence.

(b) QUALIFICATIONS.—

(1) POLITICAL PARTY AFFILIATION.—Not more than five members of the Commission may be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—A member of the Commission may not be an officer or employee of the Federal Government or any State or local government.

(c) MEETINGS.—The Commission shall meet and begin the operations of the Commission as soon as practicable. After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members.

(d) QUORUM.—Six members of the Commission shall constitute a quorum.

(e) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) VACANCIES.—A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 604. POWERS OF COMMISSION.

(a) MEETINGS, HEARINGS, AND EVIDENCE.—

(1) IN GENERAL.—For the purpose of carrying out this Act, the Commission or, on the authority of the Commission, any subcommittee or member thereof, may—

(A) conduct meetings, hold hearings, sit and act at such times and places, take testimony, receive such evidence, and administer oaths as the Commission considers appropriate; and

(B) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission which the Commission is empowered to investigate under this Act.

(2) PUBLIC HEARINGS AND MEETINGS.—The Commission shall hold public hearings and meetings to the extent practicable. Any public hearings and meetings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

(b) SUBPOENAS.—

(1) ISSUANCE.—

(A) IN GENERAL.—A subpoena may be issued by the Commission only—

(i) by the agreement of the chairperson and the vice chairperson; or

(ii) by the affirmative vote of six members of the Commission.

(B) SIGNATURE.—Subpoenas issued by the Commission shall be issued only under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(2) ENFORCEMENT.—

(A) IN GENERAL.—If a person refuses to obey a subpoena issued by the Commission, the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(B) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(c) CONTRACT AUTHORITY.—The Commission may enter into contracts to enable the Commission to discharge its duties under this Act.

(d) OBTAINING OFFICIAL DATA.—

(1) IN GENERAL.—The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the United States information necessary to enable it to carry out this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—Upon request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support and other services necessary for the Commission to carry out its duties under this Act.

(f) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 605. DIRECTOR AND STAFF OF COMMISSION.

(a) IN GENERAL.—The chairperson, in consultation with vice chairperson may appoint and fix the compensation of a director and such other staff as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure the temporary or intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at a rate not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of such title.

SEC. 606. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Members of the Commission shall serve without pay.

(b) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 607. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing the members and staff with the necessary security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this Act without the appropriate security clearances.

SEC. 608. REPORT.

(a) FINAL REPORT.—The Commission shall submit to the President and Congress, not later than 6 months after the date of the enactment of this Act, a report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members, together with any dissenting opinions. The report shall also include any recommendations for investigation by the Attorney General or the Inspector General of the Central Intelligence Agency of matters investigated by the Commission.

(b) CLASSIFICATION OF REPORTS.—To the extent practicable, the final report shall be unclassified and made available to the public. Such reports shall be supplemented as necessary by a classified report or annex which shall be provided separately to the President and Congress.

SEC. 609. TERMINATION.

(a) IN GENERAL.—The Commission shall terminate 30 days after the date on which the final report is submitted under section 608.

(b) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subsection (a) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating its final report.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, TUESDAY, JUNE 24, 2003 No. 94

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable NORM COLEMAN, a Senator from the State of Minnesota.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Father Richard S. Dalton, of Christ Our King Mission Church, Rochester, MI.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Mighty God,

We thank You for the gifts You have bestowed on our Nation: the gift of freedom, the gift of plenty, the gift of community, and the countless gifts of beauty You have given this land.

Awaken this land and its people to our accountability before You and our responsibilities to one another. Make us aware of both the gifts and stewardship granted to us, that each person in this Nation will discover their gifts and embrace their callings for our common benefit and to Your glory.

Lord, may Your grace and kindness abide with this Senate, the Senate staffs, and each related family. We pray Your protection and blessing on the mothers, fathers, grandparents, children and all, both young and old, associated with this United States Senate.

May Your care be upon all these gathered and may this Senate body labor during these days as Your ministers for our good.

I pray these things, as Your servant for Jesus' sake.

God may You now bless these Senators, Thy servants.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable NORM COLEMAN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 24, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable NORM COLEMAN, a Senator from the State of Minnesota, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. COLEMAN thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, the Senate will immediately resume consideration of S. 1, the prescription drug benefits and Medicare bill. There are approximately 33 pending amendments from last week and yesterday. We continue to make good progress. Under the order from last night, we have two consecutive votes this morning at 11 o'clock on the Rockefeller amendment No. 976 and the Bingaman amendment No. 984. Also, last night we reached an agreement to vote at 2:25 this afternoon in relation to the Dodd amendment No. 969 on open enrollments. This morning, the two managers will be working through the pending amendments and will attempt to set up additional votes for this afternoon.

I reiterate once again we will finish this bill this week, possibly Thursday night. It could be a very late Thursday night. I predict it will be a late night tonight, Tuesday night, Wednesday night, and Thursday night. If we spill over to Friday or even Saturday, we will finish this bill before the recess. I do encourage Members to come forward with their amendments as soon as possible and make those available to the managers if you plan on offering those amendments. We have a lot of work to do. The cooperation of Members will be very much appreciated over the next 2, 3 days.

PASSAGE OF S. 1157 AND S. 239

Mr. FRIST. Mr. President, let me just make one final comment. In wrapup last night, we had two very important pieces of legislation pass through the body. We are debating throughout each day the prescription drug benefits and Medicare bill, yet we have other important matters.

Last night, we passed S. 1157, which establishes a National Museum of African American History. Senator BROWNBACK has been working on getting this bill cleared for full Senate action since its introduction on May 23 of this year. I publicly thank him for his efforts and attention on this important issue so that the Senate was able to pass it expeditiously.

Also last night, the Senate passed S. 239, the Trauma Care Systems Planning And Development Act, which I introduced in January of this year. This bill directs the Secretary of Health and Human Services to collect, compile, and disseminate information regarding trauma care and emergency medical services, and, in so doing, takes into special consideration people in rural areas who might not otherwise have access to that care.

I mention those two very important pieces of legislation because I want our

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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colleagues to be aware we did pass them late last night.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant Democratic leader is recognized.

Mr. REID. Mr. President, if I could say through the Chair to the leader, as the leader indicated, we have more than 30 amendments. To vote on those would take 12 hours, or something like that. The two managers last night indicated they thought two-thirds of the amendments that are pending could be accepted by the two managers.

We have on our side probably no more than six more amendments to offer on this legislation. Senator BOXER is here to offer her amendment. We have several more that could follow that. Then we have an important amendment that Senators CONRAD and LINCOLN offered. Senator LINCOLN offered it on Friday, but she withdrew it, and she wants to reoffer that today.

I think if we do not have some flareup as a result of someone wanting to change the basic components of the bill, it is very likely we can finish this bill in a reasonably short period of time. I hope the two managers, who were meeting after we adjourned last night, have been able to make headway in working through the money we have left over that has created so much interest. Anytime there are a few dollars—and this is more than a few dollars—left on the table, so to speak, there are a lot of people who are after that money. I hope that can be resolved in some fair manner. But if that is the case, then I think you, the distinguished Republican leader, can complete this bill in a reasonably short period of time.

On our side, we have done our best to have amendments ready to offer. Senator BOXER is in the Chamber. She will not take a great deal of time on her amendment. We have the other key amendments we believe are ready to be offered and can be done in a short period of time.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. FRIST. I thank the Chair. In brief response, through the Chair, I think it is a very accurate assessment of where we are. The managers continued to meet last night and will continue to meet this morning as we put together the various amendments. So I am very satisfied with the continued progress we are making and appreciate Members on both sides of the aisle coming forward with their amendments. With that, I think we will be able to stay on schedule, giving good, adequate time for debate and amendments.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1, which the clerk will report.

The 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:

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.

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 Medicare Advantage 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 Medicare Advantage organization offering a Medicare Advantage plan, and other health plans from contracting with a pharmacy benefit manager (PBM) unless the PBM satisfies certain requirements.

Rockefeller amendment No. 975, to make all Medicare beneficiaries eligible for Medicare prescription drug coverage.

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.

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.

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.

Pryor amendment No. 981, to provide equal access to competitive global prescription medicine prices for American purchasers.

Bingaman amendment No. 984, to carve out from payments to Medicare+Choice and Medicare Advantage organizations amounts attributable to disproportionate share hospital payments and pay such amounts directly to those disproportionate share hospitals in which their enrollees receive care.

Bingaman amendment No. 972, to provide reimbursement for federally qualified health centers participating in medicare managed care.

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.

Baucus (for Edwards) amendment No. 985, to strengthen protections for consumers against misleading direct-to-consumer drug advertising.

Baucus (for Lautenberg) amendment No. 986, to make prescription drug coverage available beginning on July 1, 2004.

Murray amendment No. 990, to make improvements in the Medicare Advantage benchmark determinations.

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.

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.

Dayton amendment No. 960, to require a streamlining of the Medicare regulations.

Dayton amendment No. 977, to require that benefits be made available under Part D on January 1, 2004.

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.

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.

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.

Durbin amendment No. 994, to deliver a meaningful benefit and lower prescription drug prices.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent the pending amendments be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing none, it is so ordered.

AMENDMENT NO. 1001

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Ms. MIKULSKI, proposes an amendment numbered 1001.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To eliminate the coverage gap)

On page 49, strike line 3 through page 50, line 2 and insert the following:

''(2) LIMITS ON COST-SHARING.—

''(A) IN GENERAL.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the annual out-of-pocket limit under paragraph (4)) that is equal to 50 percent or that is actuarially consistent (using processes established under subsection (f)) with an average expected payment of 50 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).

Mrs. BOXER. Mr. President, I offer this amendment in the true spirit of making this bill work, making it a bill that isn't confusing for our seniors, a bill that doesn't cause a hardship, as the existing bill does, for those who are the sickest.

In this amendment I have the support not only of several colleagues but of the AARP, which very strongly supports it. As you know, they have been choosing their amendments very carefully. Also we are supported by the National Committee to Preserve Social Security and Medicare. So we have both the largest senior citizen organizations backing this amendment.

I was proud to give the national Democratic radio address on Saturday. I did it on this particular issue. The issue I will be addressing through this amendment is ending the benefit shutdown that occurs in this bill just at a point in time when seniors need their benefit the most. I will explain it because it isn't that complicated once you explain it.

Let me take a step back and say the best thing about the bill before us is it starts a Medicare benefit prescription drug benefit for our seniors. We have been talking about this for years. We have been pushing it for years. Since Medicare was created 38 years ago, seniors have been waiting for a prescription drug benefit. I must say, the older I get the more I realize the revolution we have seen in medicine, one that is now one of prevention. If one takes a high blood pressure medicine, if one can't control it any other way, it becomes absolutely a lifesaving benefit. If one doesn't do that or one can't afford to do that, the chances of stroke or heart disease go up immeasurably. So the best thing about the bill before us is that it begins something so many of us have fought for so long.

Unfortunately, the plan is wanting. The plan needs to be improved. It is very complicated. I have read this from a Senator on the Republican side. I heard from a Senator on the Democratic side:

No one really understands this.

That was a reference to Senators. I have a handle on what this bill does. I have had to work; I have had my staff work. I am fortunate to have a good staff. I have talked to my colleagues. But if it took me so long to figure this out, what will it do to our people.

One of the improvements we should make is this amendment I offer. I want to explain exactly what I mean when I say a benefit shutdown. It has been called a number of things—a coverage gap, a donut hole. But a benefit shutdown really explains it because here is what happens. You are going about your business. You are paying your premium. You are getting your 50-percent benefit after you pay your deductible. And bingo, you hit a certain point and what happens? No more benefit.

I have studied 100 different plans that offer a benefit. Ninety-nine of them don't have any of this. One of them has this, but it is a very rich plan and the benefit shutdown is very small. So this is the only plan I have ever seen in existence that has this ridiculous benefit shutdown. I don't understand why it happened, but I guess the bill was a compromise so that is why we have it.

Let me explain what it means. I will show a couple of charts to you. After a senior pays $275 in a deductible, they start getting 50 percent of the cost of the drug reimbursed. So it is a 50-percent benefit, once you have paid your deductible. By the way, every month you have at least a $35 premium.

Now all of a sudden, you get to $4,500 worth of drugs and your benefit shuts down and the next $1,300 you have to pay out of your own pocket. I know the State of the Presiding Officer is not much different from mine in the sense that our seniors are mostly low income. Many of them are living on their Social Security checks, maybe a little more, but since the market went down, many of them are relying on their Social Security checks. For them to have to pay $1,300 right in the middle of a year is absolutely outrageous. That is why AARP is supporting my amendment. They sent out a letter on my amendment.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, June 19, 2003.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: AARP supports your amendment to close the coverage gap that exists in the drug benefit design of S. 1.

Throughout the debate over a Medicare prescription drug benefit, AARP has voiced our members' concerns about the need for affordable and adequate coverage. Chief among these concerns continues to be the existence of a gap in the benefit. We appreciate the efforts made by the Finance Committee to close the gap and we believe the Senate should finish the job.

AARP members find the notion of a gap in coverage to be a major barrier to enrolling in a Medicare drug benefit. They tell us that they are unaware of similar features in any of the insurance products they routinely purchase. Our members do not understand why coverage would cease at a time when their drug expenses increase. The continued existence of this benefit gap threatens the workability of the benefit by jeopardizing adequate enrollment, and thus the program's ability to spread risk. Therefore, we urge the Senate to eliminate this coverage gap.

Thank you for your leadership on the issue. We look forward to working with you and other members of the Senate to enact a prescription drug benefit that will provide meaningful relief to current and future Medicare beneficiaries.

Sincerely,

WILLIAM D. NOVELLI.

Mrs. BOXER. I will read it. That is why they said I could mention on the national radio address that they support my amendment—a $1,300 cost after you hit $4,500.

Let's take the case of someone who has $7,000 a year in drug costs—and many people do. Their estimated annual premium? At least $420, maybe a little more. Their deductible? $275. They pay 50 percent of the cost of their medication, $2,113, until they get to $4,500. Now comes the benefit shutdown where they have to pay 100 percent of the cost between $4,500 and $5,812. It is actually $1,312. Then they get a good catastrophic benefit where they pay 10 percent. Look at what the senior is paying for this benefit: $4,239 out of a $7,000 bill.

The point is, because of this benefit shutdown and the huge penalty, a lot of our senior citizens would get a better drug benefit if they went to Canada and bought their drugs. This is a fact. They would be better off if they went to Canada and bought their drugs. But we can fix it today. We can end this benefit shutdown, and then the benefit will be far better.

Another way to look at the benefit shutdown is to see how unfair it is to our beneficiaries. You are paying your monthly premium every single month; $35 is what we are suggesting. But it could go up. We haven't reined in what they could charge you. Anyone who has dealt with insurance companies and HMOs knows that costs go up. Even Medicare has had to raise its costs a little bit. But by the way, because Medicare administrative costs are so low, at 3 percent, compared to these companies which could be as high as 25 percent, Medicare keeps the costs down. But under this bill, you only get Medicare if you can't get a private company. So I am telling you, we are going to have seniors maybe facing increases in their premiums. But let's give it a shot. Let's say it is only $35. It is $35 a month every single month. And guess what happens in October, if you have this kind of $500-a-month expense—just to use that as an example—you do not get that benefit for almost 3 months out of the year.

What kind of plan is this? Fortunately, it is voluntary so people have to think long and hard if it makes sense for them to do it. And I will give credit where credit is due. For our lowest income people, it may be a decent deal. But for your average recipient, to have to explain why they get no benefit for 3 months puts us in a terrible situation. It harkens back to the days when we did a catastrophic benefit and seniors took it. Then when they realized what it was, they were so angry, they were just throwing themselves on legislators' automobiles to protest. I am not kidding. This happened.

I don't want to see that happen. I want to see us do a good bill, one that is really straightforward, not confusing. So we have a real problem for our vulnerable citizens.

The last chart I am going to show is this chart because I said I would read to you from AARP's letter that they sent me. I hope colleagues will listen to what they say:

AARP members find the notion of a gap in coverage to be a major barrier to enrolling in a Medicare drug benefit. They tell us that they are unaware of similar features in any of the insurance products they routinely purchase. Our members do not understand why coverage would cease at a time when their drug expenses increase. The continued existence of this benefit gap threatens the workability of the benefit by jeopardizing adequate enrollment, and thus the program's ability to spread risk. Therefore, we urge the Senate to eliminate this coverage gap.

Mr. President, that is exactly what my amendment does. Let me go through this one argument at a time.

AARP members find the notion of a gap in coverage to be a major barrier to enrolling in a Medicare drug benefit.

Well, clearly, Mr. Novelli and the AARP understand the fact that you have a barrier when you know that perhaps for 3 months, even though you are paying your premium, you get no benefit. Again, we have studied all the plans. Virtually no plan in America has a benefit shutdown. So let's make this bill better.

Let's see the next thing AARP says:

They tell us that they are unaware of similar features in any of the insurance products they routinely purchase.

Absolutely. Only in the Congress could somebody come up with this way to save money. It is ridiculous. You are penalized if you are really sick. You are penalized if you are really sick because if someone gets cancer and has to buy very expensive drugs, or a family member gets Alzheimer's and they are trying to treat the disease in a way so they can have their loved one around longer, that is when they get hit with a benefit shutdown. How unfair is that?

Our members do not understand why coverage would cease at a time when their drug expenses increase. The continued existence of this benefit gap threatens the workability of the benefit by jeopardizing adequate enrollment, and thus the program's ability to spread risk.

What does that mean? It means that as seniors learn what this program is about, they may well come to the conclusion, depending on the size of their drug bill, that they are better off making a trip to Canada. They will save more than going through all the rigmarole—Senator CLINTON showed on a chart the rigmarole you have to be involved in, and because the way the bill has tried to really privatize this benefit, you are at the risk of the marketplace. The risk of the marketplace is OK when you are buying a car; it is OK if you are buying a dishwasher. You are at the risk of the marketplace. Yes, if it was a year when people held back and didn't produce a new product, OK, you are disadvantaged; OK, that is the risk. But to put seniors at the risk of the marketplace for drugs is a very bad idea indeed.

Therefore, we urge the Senate to eliminate this coverage gap.

This letter is signed by William Novelli, executive director and CEO of AARP. It is a nonpartisan organization that supports this amendment strongly. We want to close this gap. We want to stop this benefit shutdown. Again, a very graphic way to show what happens to you is to say that seniors will pay half of their annual drug cost from $276 to $4,500—that is their 50 percent benefit—and then they face a $1,300 benefit shutdown, just at the time they need their medicine the most. It makes no sense.

You know, $1,300 may not sound like a lot to some of our Senators here. We get good pay and, by the way, we have a pharmaceutical benefit in our health plan. It is a very good one. It is an excellent one. You know what. It doesn't stop when you hit a certain level. Our pharmaceutical benefit just keeps on going. It just keeps on coming, as do pharmaceutical benefits in practically all the plans in America today.

Just think about the administrative overhead to figure this one out. You are going along and, all of a sudden, this red arrow kicks in: Stop. I want to know how much it is costing us to administer this kind of deal. You can imagine, you get a note in the mail. Your benefit stops. You have paid $4,500. You go back and check your records. No, I didn't, I have only paid $4,200. You call up the administrator: You have made a mistake. Well, no, I didn't. Well, yes, you did.

How many hours will a senior who is confused and upset have to spend on the phone? How many hours will an administrator have to spend working on the details of this? Too long, I can tell you that.

This plan, as it is before us, if this amendment doesn't pass, pulls the rug out from underneath the people who are going to need the help the most. So if we are in this in order to offer a plan that people will utilize, then let's support this amendment. It is as simple as that.

Many seniors take medicines to manage chronic health problems. I discussed that at the beginning. How wonderful is it that today we can avoid horrible outcomes by taking pills that will help keep our blood pressure down, regulate our heart rate, keep our insulin in check—I could go on and on and on. Some of our seniors are cutting their pills in half because they cannot afford it. How tragic would it be if, after they think they are going to have this great benefit, they find out they could do better going up to Canada and buying the pills because maybe it comes out to 25 percent when all is said and done, when you put in the benefit shutdown, the premiums cost, and the deductible. It just may not add up. How sad it would be if, after all the hoopla we are associating with this bill, the bill itself is inadequate.

I received a letter from a constituent in San Marcos, CA. She has an annual prescription drug cost that will top $10,000. Well, she will be hit with this benefit shutdown.

Another constituent from Indio, CA, told me she has made five trips to Mexico over the last several years to purchase her prescriptions. This senior drives all day long to Mexico in order to purchase affordable heart medicine that she needs to survive, that she needs so that she can wake up every day and see her grandchildren, and take a walk, and have a quality of life. She is awaiting a benefit that will make it easy for her to go down to her corner pharmacy and say: Here is my card; I am ready to go. But this particular senior is going to be shocked to find out that if she is in the category of the benefit shutdown, it is going to cost her $1,300, plus at least $35 a month, plus a deductible.

A retired physician from Marina del Rey told me that a pill he takes for heart disease went up 600 percent—from $15 to $85. So for seniors who have to take an assortment of medicine to manage chronic diseases, the cost really starts to add up.

I have 4 million senior citizens who are part of the Medicare Program in my State. If you take the population of Delaware, that is five Delawares. That is how many senior citizens I have, and they deserve a break.

Unfortunately, this bill gives them a break, a break in coverage. Let's close that break in coverage. Let's close that gap, stop the benefit shutdown, and let's have a bill of which we all can be proud.

Again, this benefit shutdown is unheard of if we look at all the plans. It would not happen to you, Mr. President, if you have FEHBP. It will not happen to your wife, your kids, or you. It does not happen to me. I do not walk in and they say: Oh, Senator, sorry, you are in that time of the year; gee, just for these 3 months, you do not get any benefit at all. I guarantee you, if our plan did that, there would be shouting at the caucus lunches: What kind of plan do we have that we walk in, in the middle of the year, and somebody tells us we do not have coverage? We are paying our premium.

We would not stand for it.

Why are we giving a plan to the seniors we represent that is far worse than the plan we have? Because we want to give tax breaks for the wealthy few, and so we cannot afford to do this?

This is not a costly fix. CBO is telling us it is $60 billion out of a $400 billion bill. Let's figure out a way to pay for it. It is easy. I can tell you right now the administrative costs in this bill range from 15 percent to 25 percent. That is $100 billion. Why are the administrative costs so high? The private sector is doing it, not Medicare. Medicare has a 3-percent overhead. The private sector has a 10- to 20-percent overhead. Let's take the bill back and figure it out and close this benefit shutdown.

I do not want to be the Senator who stands up and votes for this with a smile on my face and then have a senior stand up and say: Senator, I walked into my pharmacy in October. I have $500-a-month drug expenses, and guess what, I have no benefit. I had to pay $1,300 out of my own pocket just when I needed the drugs the most. Why are you doing this to me? Why don't you do it to yourself?

That is what I hope they say.

I am so happy we are discussing a Medicare drug benefit, believe me. I share the views of a lot of my colleagues that it is time we have one, but to have this plan, the only plan in the country virtually that has a benefit shutdown, is an embarrassment to me. We do not have it in the Senate plan. They do not have it over in the House, I assure you of that.

We should not have a benefit that starts and stops. What is really frosting Senator GRAHAM is that seniors even have to pay a premium during this benefit shutdown. So he has an amendment—we have not voted on it yet—that says at least for October, November, and December, do not charge seniors a premium.

It is the same as if someone walked in a store and said: I want to buy a TV set, here is my money; I am going to pay it off over 3 months, here is my money. And they say, thank you very much; you are not getting a TV set; we will deliver it in 3 months. But you advertised it. No, you have to pay me 3 months, and then I will send you your TV set.

In a free market economy, this is a very sick idea. This does not make any sense. In our society, if you put money down, you pay for a benefit, you pay for a product, you get it.

I think BOB GRAHAM has a good idea: If you are going to do this to seniors, then do not make them pay their premium. At least show some regard for the person.

You are a senior; you are on several drugs; you are feeling good; the medicine really helps you; you have signed up for the plan; you have paid your deductible; you start getting your 50 percent benefit; and, boom, it is over, when you reach $4,500. Your benefit shuts down.

I cannot say it enough. It is unheard of to pay a $1,300 penalty for sickness. I cannot say it enough.

You have signed up. A few months go by, and you add the costs up in your head trying to figure out how much your medicine is costing. You realize you are going to hit the $4,500 benefit shutdown. Your doctor says you need to keep taking the medicine because you are worse, and he knows you are worried about entering the benefit shutdown. You are going to be hit with the full cost of those drugs for that period. What are you going to do?

You sit down and you crunch the numbers. You ask: How can I cut costs? You may well skip your medicine; you may well cut the pills in half; and you may well threaten your health and your life.

The benefit shutdown is wrong. It goes against everything we do in this country. Nobody else does this. It is not that expensive to fix. You are going to need a calculator every time you try to figure out what you have to save. You are going to need a good accountant.

A shutdown is going to cause trouble with the administration of this benefit. People will be calculating: Gee, Mr. THOMAS has used $3,925. Let's get him on the watchlist. Mrs. BOXER over there, she has used $4,000. Then suddenly you are cut off. You call up and you do not understand it. It is going to take hours to explain it to a senior citizen.

In closing my discussion of this amendment—and I will be asking for the yeas and nays on this amendment—the National Committee to Preserve Social Security and Medicare and the AARP, the two biggest senior citizen organizations in this country, endorse this amendment.

I am to again read from Mr. Novelli's letter because this says it all in a very clear way, and I hope my presentation has demonstrated that everything Mr. Novelli, the CEO of AARP, has stated is true:

> AARP members find the notion of a gap in coverage—

That is benefit shutdown—

> to be a major barrier to enrolling in a Medicare drug benefit. They tell us that they are unaware of similar features in any of the insurance products they routinely purchase. Our members do not understand why coverage would cease at a time when their drug expenses increase. The continued existence of this benefit gap threatens the workability of the benefit by jeopardizing adequate enrollment and thus the program's ability to spread risk. Therefore, we urge the Senate to eliminate this coverage gap.

Signed William Novelli, AARP.

I thank the AARP because I know they are calling colleagues and explaining this. Just remember, do unto others as you would like them to do unto you. Do my colleagues want to have their drug benefit changed so that just when they need their pharmaceutical product the most, they tell you it is not covered for you; it is not covered for your wife; it is not covered for your husband; it is not covered for your children? Mr. President, you do not want that. Why are we doing it to the seniors? At least give them a break and close down this benefit shutdown because if we do not, if we do not vote for this amendment, people are going to be at our doors because they are not going to understand it.

If my colleagues vote for this amendment and we fix this, we can truly say we have made this a far better plan, a plan more like our own, a plan more like the other 100 plans I have looked at.

I yield the floor.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Is there a sufficient second? At this time, there is not a sufficient second.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I renew my request for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask that all pending amendments be temporarily laid aside so the Senator from Arkansas can offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arkansas.

Mrs. LINCOLN. I thank the ranking member of the Finance Committee, as well as the chairman, for their diligence in this very important issue.

I say to my colleagues, I do not think we will be taking up an issue quite as critical as this one for quite some time when we reflect both on the economy of our country and the quality of life we want to provide our seniors in this Nation and, more importantly, when we think about where our Nation is going in terms of the demographics and the number of seniors we actually have in this country, going from 41 million Americans over the age of 65 to an explosion in the next 15 to 20 years of almost 70 to 75 million Americans over the age of 65.

In looking at this prescription drug package, I hope we all will look at it not only as an ability to provide the seniors the kind of quality of life we want to provide them but that we also look at it as an economic issue in terms of what it is going to cost us in this great country to provide the kind of quality of care in the next 20 years if we do not look at a prescription drug

package which is going to provide our seniors with the ability to live their lives in a way where it will be less costly to the more expensive areas of health care and, more importantly, they will be able to live the final years of their life in comfort and certainly more comfortable circumstances, hopefully at home, and have the quality of life we want them to have.

Medicare has been a successful, stable program for millions of seniors and individuals with disabilities for over 40 years. Medicare has succeeded in guaranteeing hospital coverage and physician coverage for a population which was largely uninsurable. Now we are debating adding prescription drug coverage to the Medicare Program and we should do it in a way that echoes that same stability in the program seniors enjoy.

AMENDMENT NO. 1002

Mrs. LINCOLN. Mr. President, at this time I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN], for herself, Mr. CONRAD, Mr. MILLER, and Mr. CARPER proposes an amendment numbered 1002.

Mrs. LINCOLN. 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 allow medicare beneficiaries who are enrolled in fallback plans to remain in such plans for two years by requiring the same contracting cycle for fallback plans as Medicare Prescription Drug plans)

On page 83, strike lines 1 through 7, and insert the following:

''(5) CONTRACT TO BE AVAILABLE IN DESIGNATED AREA FOR 2 YEARS.—Notwithstanding paragraph (1), if the Administrator enters into a contract with an entity with respect to an area designated under subparagraph (B) of such paragraph for a year, the following rules shall apply:

''(A) The contract shall be for a 2-year period.

''(B) The Secretary is not required to make the determination under paragraph (1)(A) with respect to the second year of the contract for the area.

''(C) During the second year of the contract, an eligible beneficiary residing in the area may continue to receive standard prescription drug coverage (including access to negotiated prices for such beneficiaries pursuant to section 1860D–6(e)) under such contract or through any Medicare Prescription Drug plan that is available in the area.

At the end of title VI, add the following:

SEC. ___. 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''.

Mrs. LINCOLN. I am extremely proud to offer this amendment with my colleagues, Senators CONRAD and MILLER. Our amendment seeks to make the drug benefit more predictable and reliable for seniors by allowing them to remain for 2 years instead of 1 year in what we are calling the fallback plan that is outlined in S. 1. As I mentioned when I began speaking this morning, Medicare is here because over 40 years ago more than a majority of seniors in this Nation were uninsurable. We were finding that private industry was not finding this group of individuals profitable enough to actually be in the marketplace and provide them a plan. So I think it is critical, as we look at what we are trying to do today in reforming Medicare and providing a prescription drug plan, that we look at what history has shown us and that we are careful to make sure the plan we provide is going to meet the needs as well as to be fair for all seniors in this great Nation and across the demographics of our country.

Senator CONRAD and I raised this issue in the Finance Committee several weeks ago, since our States are primarily rural and have not historically been attractive to the private insurance industry. This amendment we are offering today simply requires the same 2-year contracting cycle for fallback plans as is required for the private drug-only insurance plan.

We want to make sure the private plans that can come in for a 2-year contract for our seniors who are out in rural areas, who are disproportionately low income, who are less attractive in many ways for these private entities to serve, will have the same opportunity and the same stability other regions of the Nation will have because those fallback plans will be there for the same amount of time as the private insurance industry.

In the underlying bill, Senators GRASSLEY and BAUCUS took a number of steps to encourage private drug-only insurance plans to contract with Medicare and deliver the drug benefit. They created a special transition risk corridor in the first 2 years to encourage these plans to participate, and they gave the administrator of CMS additional tools to get the plans in there. If the administrator determines that at least two plans cannot stomach accepting the minimum requirements for accepting risks described in the bill, then the administrator can reduce the amount of risk plans needed to assume. Alternatively, the administrator can increase the reinsurance percentage or the subsidies to encourage drug-only insurance plans to participate.

By doing all of these things, this bill acknowledges these plans currently do not exist in nature, as has been the statement of our current CMS administrator, and they must be enticed to come in and do the job. In other words, we have basically bent over backwards in this bill to bring private plans into this arena of Medicare prescription

drugs, particularly in areas where they traditionally have not come.

However, there is still no guarantee they will. That is why I am glad Senator GRASSLEY and Senator BAUCUS created a Medicare-guaranteed drug plan, or safety net, called the fallback. If the administrator exhausts all his options and still no two plans want to come in and deliver drugs to our elderly, then a Medicare-guaranteed plan or a fallback plan will deliver that drug benefit.

The only problem I have with the fallback is it is available for seniors for only 1 year at a time. This means if private insurers decide to test whether they want to offer the benefit in a community, seniors lose access to the fallback plan even if the new plan is significantly more expensive for them and/or more restrictive.

What does this mean in real life? Imagine this scenario in this chart. We have it on a chart so it certainly makes a lot of sense. There is an 85-year-old senior in rural Arkansas who enrolls in a fallback plan, fallback No. 1, in 2006 because there is only one private drug-only plan that is available in that area. Then in 2007, another private drug-only plan B enters the region so she must leave the fallback and enroll in one of them even if the new plans are not better for her.

She chooses private plan A. She suddenly has a different premium, a different cost sharing, a different formulary, and a different set of preferred network pharmacists. She must figure out if her drugs are going to be covered or not and where they must go to get them.

Then the next year, in 2008, private plan A leaves so she must again leave her plan. She enrolls then in plan B and gets used to the new premium, the new formulary. But then plan B departs in 2009. With no plans in the area, she enrolls in a new fallback plan with a whole new premium, a whole new formulary and pharmacy network, and it could go on and on.

I don't usually use charts, but I feel very comfortable with this chart because we have seen this happen before. We have seen it in rural areas where Medicare+Choice has come in, they have enticed our seniors, and then they have left very quickly, leaving seniors without any kind of coverage, having to go back to the traditional Medicare product. We know it can exist because we have seen it before.

What we want to do is to simply give seniors, particularly in rural areas, more stability in what we are proposing in this Medicare prescription drug plan. This is certainly a very real circumstance that could happen as the seniors move in and out—the fact that even in the fallback plans there is no standard design, so even when a fallback plan leaves and comes back 2 years later, it will still be a whole new scenario.

Both in the caring for my aging parent and my husband's aging parents, as well as my husband's grandmother who will be 106 this year—which is amazing in itself—providing them with more confusion is not where we want to go. We want to make this as simple as possible. We want to make it as easy a transition as we possibly can. Their management of multiple diseases or chronic problems is heavy enough in terms of the weight on their shoulders and their emotion. Providing them every year with the unfortunate circumstances of having to find a new formulary, find a new premium, a new pharmacist provider is absolutely not what we are trying to do.

I plead with my colleagues, I don't want to be in such a horrible position as this. I don't want to force my constituents in it either. It would be confusing to me. All we are asking of our colleagues is to give the fallback plan the same opportunity to succeed as we are giving those private plans, to make sure it will be there in a way that seniors will have some stability.

I hope our amendment can be adopted. It simply requires that 2-year contract, putting it in line with the current private sector business practices that happen in the real world. After all, that is what we are trying to do, make sure we provide a plan that is common in the real world. We use the analogies of plans that already exist—the FEHBP plan that we have as Federal employees. We look at what already exists in a traditional Medicare plan now. We want to make sure we provide as much continuity for our seniors as we possibly can.

This amendment goes a long way to ensure more consistency and stability for our seniors. This amendment improves seniors' choices by providing them the option not to bounce back and forth between plans with different benefits and premiums. It improves fairness by allowing seniors in both drug-only and fallback plans to remain in those plans for the same 2-year timeframe. It improves the stability of the benefit package by reducing the year-to-year variability in premiums, in cost sharing, in formularies, in local pharmacists.

I don't know how many questions other Members get from their seniors, but I get a ton of them. In my State offices, seniors call all the time for help with benefits and concerns about things that are not covered currently under Medicare. If you have not got it already, you can well imagine what the barrage on your staff and your offices is going to be when these seniors find themselves, particularly in rural areas, where they are flip-flopping back and forth from one plan to another every year without an understanding of what that plan actually is going to provide.

This amendment also aligns contract cycle with current business practices. The PBMs serving the private sector typically have 3- to 5-year contracts. Requiring the fallback plans to have a 2-year contract better reflects the real-world practices and increases the guarantee they will bid to serve regions where drug-only plans have failed to come. It also continues to allow seniors to enroll in drug-only plans even if a fallback plan is available for 2 years. Nothing prevents a senior from enrolling in a private drug-only plan if one is available in the region.

That goes back to one of the best arguments for this plan. That is, if the private plans are there and are working, you do not have to worry; the fallback plan is not even going to be there to begin with. It is not even going to exist if there are two competing private drug-only plans in the region. This is completely hypothetical if, in fact, the underlying premise that the private drug-only plans are going to reach out to every region of the country and they will be there offering a good benefit to all of our seniors.

The problem is we have history. We know it traditionally has not worked in our rural areas. We want to make sure our seniors get the same consideration other seniors in this great country get. It continues to give drug-only plans first bidding rights. Fallback plans only come to the regions after the CMS administrator has determined that two private drug-only plans will not be available, after he has exhausted all of these tools, of which we have given him many in order to entice these plans in there.

It has a very minimal scoring impact. This amendment buys a lot in making the system more stable but costs almost nothing. It is very reasonable in cost, and we pay for it, so there is no problem in terms of what we are talking about doing.

I am very proud to have worked on this amendment with my colleague, Senator CONRAD, who will speak about the importance of the amendment in making the drug benefit more predictable and reliable for seniors. I am pleased Senator MILLER has joined. Many other Senators I have visited are anxious to know about the policy we begin in this drug package for Medicare seniors, that we absolutely enter into what we are doing with the knowledge that legislation we work on here we understand is not a work of art, it is a work in progress; as we move through these processes to improve legislation, that we will take the time to understand small details. If we can supply the fallback the same opportunity, then we can also make sure this bill is going to be good for everybody.

We know as we move through the debate on this bill, as we move through the implementation, there will be multiple changes that will occur. It is important, as we take the time as we initially debate this issue, that we recognize all parts of our Nation are not exactly alike, that a one-size-fits-all is not going to fit every region of this Nation.

Most importantly, every senior in this great country is just as important as the other. If you are a low-income senior living in a rural part of this Nation and have worked hard your entire

life and want to retire in the same area in which you grew up and where you raised your children, you are not going to be slighted in a prescription drug package simply because of where you live or the fact you worked at a lower income job and may not have as much to retire on as other seniors across this Nation.

I hope as we move forward in this amendment and in this bill, we will recognize there are places where we can improve it. We will lead the charge, knowing that is what our job is, that is what this great deliberative body is for. It is to make the improvements along the way and to push a bill forward that, in the long term, will provide a better benefit for people across this Nation. But, most importantly, we must recognize our Nation is diverse. That is a huge part of its strength. Those of us who come from rural areas recognize that sometimes our needs are met in different ways.

I encourage my colleagues to take a look at this very simple amendment that doesn't cost much but can make up a great deal of ground in this bill in bringing parity for all seniors across this Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see my friend from North Dakota is eager to address the Senate. I will just be a few minutes on this particular amendment.

AMENDMENT NO. 1001

Mr. President, I rise to commend the Senator from California, Senator BOXER, for her amendment. I will support this amendment for the very sound reasons she has outlined here on the floor of the Senate.

Just going back very quickly, in 1965 we passed Medicare and we said to our seniors: Pay into the fund, play by the rules, and your health benefits will be attended to. Therefore, we provided the hospitalization and the physician fees. At that time, only 3 percent of all private companies provided any kind of prescription drug protection.

We have made extraordinary progress in recent years with the development of prescription drugs to tend the needs of all of our citizens and particularly the elderly. Now prescription drugs are as important as hospitalization and physician fees.

What this overall debate has generally been about, in terms of the prescription drug program, is how and when are we going to pass a prescription drug program that will be worthy of our senior citizens and do for our senior citizens what the hospitalization program and the physician programs, which are under Medicare, Part A and Part B, do for our seniors.

This particular proposal we have before the Senate now has two very important gaps. The Senator from California has pointed out one very important gap, a failure to provide services to many of our elderly. There is a second important gap and that is how we treat our retirees.

Senator BOXER has outlined the benefit gap that exists under this proposal. What we are talking about is seniors are going to be spending $1.8 trillion over the next 10 years. This bill only provides for $400 billion. It is only really about 22 percent of all that is going to be necessary for our seniors over the period of the next 10 years.

The issue before us is, first, whether seniors will be able to get the prescription drug program through their Medicare program. I believe the way this bill is constructed they will be. Second, what will the amount available to them be. Clearly, this bill is short.

What the Senator is reminding us about, with her excellent presentation, is that if the Senate itself had the will we could be providing the complete amount necessary to meet all the needs of our senior citizens. I believe that is what we should do.

We have had this debate before in the Senate under the Graham-Miller proposal last year, which I was proud to support. That would have cost close to $600 billion over a period of 8 years. The House Democrats had a different proposal that would have been, actually, close to $1 trillion. But it would have made all the difference and would have attended to the needs of our elderly people.

The Senate has made a different judgment. They have decided they were going to provide $3 trillion in tax cuts for the wealthiest individuals, and give short shrift to our seniors with a $400 billion proposal. That is what we have here in the Senate.

We have had opportunities, even while we were debating the tax proposal. A number of us offered amendments and said let's just take the reduction in the top three rates and perhaps the dividend tax reduction and, instead of going ahead with those additional deductions, use those resources and put them onto a prescription drug program.

We got 49 votes here in the Senate. We got 49 votes here. This body is evenly divided, effectively, on the concept that the Senator from California has provided. Virtually half of this Senate wants to provide the full benefits which would be included in the Boxer amendment. That is what I think needs to be done if we are going to provide a meaningful benefit to seniors.

As this chart points out and as the Senator has explained, after paying the $275 dollar deductible, for expenditures up to $4,500, we are finding 50 percent of all the expenditures effectively are paid for. Then we have the benefit gap in here, which is sometimes known as the donut hole. And then we find the expenditures for our seniors up at 90 percent in the high-cost areas.

It is this area the Senator from California is addressing. I imagine she would like, as well, to try to do something about reducing this deductible or even the premiums as well. Her amendment certainly would do that.

We are back to the real choice of what is important. Are we as a Nation going to say it is more important to have a prescription drug program worthy of its name and support the Boxer amendment? Or, are we going to fail to do that? I, as one Senator, as long as I am in the Senate, am going to continue to fight to be sure we provide the resources to do for prescription drugs what we are doing for our seniors under hospitalization and also with physician fees. I think that is what is fair. That is what is necessary. That is what we mean when we talk about having a good prescription drug program. That is what is really called for if we are going to be true to our senior citizens.

I thank the Senator for raising this issue again. It is really a question of choices. It is a question of priorities. This Senate has made a judgment, a decision previously that what we ought to do is provide tax reductions of $3 trillion, and therefore there are those who say we cannot afford to do what we should be doing for the senior citizens of this country. I regret it. It does seem to me the amendment, which says let's go ahead and pass the Boxer amendment and then we will sort through the pressures we are going to have on our budget in the future and perhaps review some of those excessive tax reductions—it seems to me that is in the Nation's interest.

This is a question of priorities. It is a question of choice. It is a question of value. The Senator from California has made what I think is a compelling case about what is needed to do the job. Mr. President, 22 percent is what this downpayment is. I consider it a downpayment. As I mentioned on all occasions, I think the downpayment is out there. I am going to do everything I can—I am sure the Senator from California is as well—to make sure there is not just a downpayment, but there is going to be a continuing effort on our part to make sure the senior citizens are going to be treated fairly.

Mrs. BOXER. Will my friend yield?

Mr. KENNEDY. I am happy to yield.

Mrs. BOXER. I want to ask a couple questions. The Senator used the term ''donut hole.'' I used the phrase ''benefit shutdown.'' It's all the same. But on the chart, between the yellow and the red, is a big white space. That means that between $4,500 and $5,800 essentially there is no benefit. This is a cost.

My friend is right. All we had to do is tighten up a little bit on what our colleagues wanted to do for the people who earn $1 million a year. It would not have taken that much. The cost of this, after the $400 billion, is $60 billion. We got that from CBO, a $60 billion cost.

My question is basically this: Does he not believe, when you really take a look at this, the administrative costs of making this work are going to be quite large? Think about the accounting that has to go into it, to track everybody's benefit. You have to do it

twice. Once between $4,500 and $5,800, and then it goes to 90 percent. I am convinced, I say to my friend, there will be some administrative savings here.

Also I would make the point that because this bill—I know he agrees with me on this—relies too much on the private sector, the administrative costs are sky high. Medicare runs a 3 percent administrative cost. The private sector runs between 15 and 25 percent. As a matter of fact, in the House bill they are saying it is a 25 percent cost of the entire bill.

So I say to my friend, this particular amendment is not that large a cost when you really look at administrative costs going in.

The reason I do not offset it, I say to my friend, is because I think our smart Senators and their smart staffs can sit down and figure out a way to pay for this thing where you can take a lot out of administration. I just wonder if my friend agrees that the complication involved here is worth removing.

Mr. KENNEDY. Well, the complication is costly. We know for a fact we spend $5,000 on health care for every man, woman, and child. We are spending $1.4 trillion a year for every man, woman, and child in America at the present time. That is even before we get into this. Forty percent out of every health care dollar is nonclinical. It is nonclinical. There is not an industry in the world that has that kind of, effectively, overhead.

If we reduce that from 40 cents to 35 cents, it would be $70 billion a year. If we took it down to 30 cents, which is not unreasonable, that would be $140 billion a year. It gives you some idea of what is in the health care system that is not really being translated into good kinds of services. And that is a very important issue and question.

I think the Senator is right, that there is a very high administrative cost generally in terms of our health care system, and there are things that can be done about it. I hope we will have the chance to address those. We have some ideas. But I must say, now the question really has to do with the questions of priorities, about how we are going to act. The fact is, we have the amount that is in the budget which is only the $400 billion, and you stretch it and stretch it, and pull it and pull it, and you get this kind of result. It isn't the kind of result that would be there if the Senator from California drafted the bill or if I drafted the bill, but this is where we are. I am going to do everything I possibly can to make sure we are going to have a complete system.

I thank the Senator.

AMENDMENT NO. 976

Mr. President, I know we are going to go to a vote at 11 o'clock. I would like to take just a minute on the amendment we are going to be voting on. As I understand it, it is the Rockefeller amendment that will be directed toward the retiree issue.

One of the great strengths of Medicare is that it is for everyone. Rich and poor alike contribute to the system. Rich and poor alike benefit from it.

At bottom, Medicare is a commitment to every senior citizen and every disabled American that we will not have two-class medicine in America. When a senior citizen enters a hospital, Medicare pays the same amount for their care whether they are a pauper and a millionaire. When a senior citizen goes to a doctor, she has the peace of mind of knowing that Medicare has the same obligation to pay for her treatment no matter what her financial circumstances and the doctor has no financial interest in rationing her care according to the contents of her bank account.

Through the Medicaid program, we do try to provide extra help for those who are poor. But the fact that Medicaid provides extra assistance for the poor does not reduce Medicare's obligation to provide equal treatment for all. Medicare always has primary payment responsibilities for the services it covers. Medicaid is always supplementary.

Medicaid provides critical help to the poor and the elderly, but it does not provide the same reliable guarantees of equal treatment that Medicare does. Under Medicaid, States have limited the number of days of hospital care they would provide or the number of doctors' visits they will support. States have placed arbitrary limits on the number of prescriptions.

This legislation sets an undesirable precedent for treatment of poor senior citizens who are eligible for both Medicare and Medicaid. For every other benefit, these senior citizens enroll in Medicare, and Medicaid supplements Medicare's coverage. But for this benefit, the bill says that the poor are excluded from Medicare. The only benefits they get are from the Medicaid program. Medicare is for all senior citizens who paid into the program during their working years not just some senior citizens. And it should stay that way.

This amendment rights this wrong. It says we will not take away the Medicare that the poor have earned by a lifetime of hard work. It deserves the support of the Members. I hope it is adopted.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 1002

Mr. CONRAD. Mr. President, I rise to speak on the amendment of my colleague from Arkansas. This is an amendment we brought up in the Finance Committee.

Mr. SANTORUM. Mr. President, will the Senator from North Dakota yield for a unanimous consent request?

Mr. CONRAD. I am happy to yield.

Mr. SANTORUM. Mr. President, the managers of the bill have asked we enter a unanimous consent agreement that the time between 10:50 and 11 o'clock be equally divided on the Rockefeller amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, I would object to that because I don't want to be taken off my feet when I am finishing the presentation on our amendment. It is going to take me more than 2½ minutes, so I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. I say to the Senator, let me know, if there is maybe 8 minutes equally divided, would you have time to do that?

Mr. CONRAD. I would be happy to do that.

Mr. SANTORUM. Mr. President, I ask unanimous consent that we have 8 minutes equally divided, starting at 10:52.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. Mr. President, as I stated earlier on the Senate floor, I believe the bill before us is a step in the right direction. It provides much-needed and long-awaited prescription drug assistance to Medicare beneficiaries across the Nation. I commend Senator GRASSLEY and Senator BAUCUS for putting this proposal together.

But while I support this effort, I also recognize its shortcomings. I think one of the biggest weaknesses of this bill—other than the fact that it is not the kind of full prescription drug plan that many had hoped for because there are not sufficient dollars to support such a plan—is the fact this underlying legislation has too much instability. It creates confusion.

We could have a senior being in four different plans in 4 different years. And if there is anything I think we know, it is that seniors want certainty. They want to know what they are getting. But under this plan, seniors could be bounced back and forth between different plans, depending upon how many private drug-only plans enter an area. That is the first problem. If a senior is in a fallback plan and two private plans enter the area, they will be forced to leave a plan they may like, and they have no choice in the matter.

The second problem is, every time they switch between drug-only and fallback plans, their benefits could change. This chart demonstrates that uncertainty. Premiums are uncertain. Deductibles are uncertain. The coinsurance, coverage gap, the covered drugs, and even access to local pharmacies with no extra charge—all of those things are subject to change.

The third issue is this very ability isn't just a problem that could occur when a senior goes from a drug-only plan to a so-called fallback plan. It could also happen if seniors go from one fallback plan to another.

When you add this all up, this is the type of situation a senior could face, as shown on this chart. The Senator from Arkansas earlier used this chart. It shows what could happen to a senior being in four different plans in 4 different years, with different premiums,

with different copays, with different formularies—that is, different drugs being covered—with different rules with respect to whether they can use their local pharmacy without additional cost.

All of these are subject to change from year to year. Every one of these—the premiums, the deductibles, the coinsurance, the coverage gap, the drugs that are covered—is subject to change. That is not the circumstance we want to construct for our seniors.

In one year of this benefit, only one drug-only plan enters a region. A senior enrolls in the fallback plan to get drug coverage. In 2007, another private plan enters, and the senior is compelled to leave the fallback plan. Whether they like that plan or don't like it, they are forced to leave it.

In the third year, we might see private plan A leave the program and the senior then be put in private plan B, again with different rules, with different copays, with different premiums, with a different coverage gap. And then again, if private plan B left the area, they could again be in a different fallback plan—four different plans in four different years.

I am particularly concerned that rural seniors could face the situation I just described. To date, private plans have not had much interest in coming into those areas. Only 2 percent of rural counties had two or more Medicare+Choice plans in August of 2001.

This amendment seeks to create more stability and to provide the kind of certainty our seniors want. I hope my colleagues will look upon this plan with favor.

I ask unanimous consent that a letter from the National Council on the Aging endorsing this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NATIONAL COUNCIL ON THE AGING,
Washington, DC, June 23, 2003.

Hon. BLANCHE LINCOLN,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR LINCOLN: The National Council on Aging (NCOA)—the Nation's first organization formed to represent America's seniors and those who serve them—supports the amendment you are offering along with Senator Conrad to provide for a two-year contract cycle for the fallback plan in the Senate Medicare proposal.

It is clear from the prescription drug proposal being considered in the Senate that beneficiaries desperately need more stability and less confusion. We are concerned that under the structure currently proposed, vulnerable seniors could be forced to ping-pong back and forth every year from one plan to another—plans with potentially much different premiums, benefit structures, and formularies. We must do everything possible to avoid this kind of instability and confusion, which upset far too many seniors in recent years who enrolled in Medicare+Choice programs. This unfortunate experience must not be repeated.

We deeply appreciate the fact that, unlike the House bill, the Senate bill includes a failsafe mechanism to ensure that prescription drug coverage is guaranteed for every beneficiary choosing to participate.

Given the authority and flexibility in the Senate proposal to negotiate with private plans to reduce their risk in an effort to encourage their participation, we do not expect a significant number of beneficiaries to need the fallback plan. However, in those instances when it is necessary to guarantee access to drug coverage, seniors should not be disadvantaged by subjecting them to a system that could be disruptive and disturbing.

Thank you for your efforts and leadership on behalf of America's seniors. We urge Senators to support your amendment, which will further enhance the stability and fairness of the Senate Medicare proposal.

Sincerely,

JAMES FIRMAN,
President and CEO.

AMENDMENT NO. 976

The PRESIDING OFFICER. Under the previous order, there are 8 minutes of debate evenly divided on the Rockefeller amendment. Who yields time?

Mr. DODD. Mr. President, I ask to be yielded 2 minutes of the 4 minutes on the Rockefeller amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield 3 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 3 minutes.

Mr. DODD. Mr. President, I thank my distinguished friend and colleague from West Virginia.

I hope the body will support this amendment. I have spoken about the bill generally and expressed my optimism about it despite the serious shortcomings I have. It is a major step in the right direction. We can enhance that by adopting what Senator ROCKEFELLER is offering us today: The ability to ensure that employers will continue to offer prescription drug coverage for their retirees.

What we don't want to do, as we move forward with this program, is to supplant existing retiree programs. That would be a great setback for us. The bill, as presently crafted, does not count payments made by the retiree benefit plan that are out-of-pocket expenditures by the individual beneficiary. This will vastly increase the amount of money an employer will have to pay in order to act as an effective supplement to the Medicare drug benefit, a so-called wraparound to Medicare. In other words, this bill would actually discourage employers from playing even that reduced role in terms of prescription drugs.

The Rockefeller amendment will address this problem so that employer contributions are counted toward an individual's out-of-pocket costs. We will offer an amendment ourselves that would add even a bit more. But this is a major amendment and a critical one. It would be a great irony indeed, as we move forward with our plan, that we end up discouraging employers from participating, as they have, in providing their retirees with the kind of protections they need. It would actually cost them more. It is very important we adopt this amendment. This is a critically important question.

Even before we got into this whole business, the benefits being provided by employers, by nonprofits, and others have been important in terms of enhancing a retiree's ability to pay for prescription drugs and not have to make the choice of food on the table or prescription drugs or to self-medicate by reducing the amount of prescription drugs they get. No one in this place wants to be a party to actually encouraging employers to step away from the very important part they already play in providing these benefits for their employees and retirees.

I thank the Senator from West Virginia. It is a very important amendment. I strongly endorse it and hope it will be adopted.

Ms. MIKULSKI. Mr. President, I rise in support of the amendment No. 976 offered by Senator ROCKEFELLER to protect retirees from losing their hard won health care benefits. I also support amendment No. 998 offered by Senator DODD to encourage employers to continue to provide retirees with health care coverage.

I have seen how a community is devastated when a company pulls the retiree health care plan out from under their feet. Last year, when Senator ROCKEFELLER and I worked on adding steel retirees to the trade adjustment assistance health care tax credit, the writing was on the wall for Bethlehem Steel. A once proud company, that was the backbone of several communities in Maryland, West Virginia, New York, and Pennsylvania had been crippled by illegal dumping of foreign steel.

Now Bethlehem Steel is no more and nearly 20,000 of their retirees and their families in Maryland, nearly 100,000 total, are left without the health care for which they worked their whole lives. We provided some relief for these retirees.

But we cannot let other retirees face the fear of losing their health care; face going bankrupt trying to afford their drugs, or face a confusing new system.

This legislation does not privatize Medicare: it does not coerce seniors to leave the Medicare they trust to get the drugs they need. Yet it does rely too heavily on private insurance companies. It should be a benefit for seniors and not a benefit for insurance companies that have let seniors down so many times before. Yet it puts the health care benefits of millions of seniors in jeopardy by creating an incentive for employers to drop retiree health care coverage.

That is why I will join my colleagues in offering amendments to strengthen the bill.

What would this amendment do?

CBO, our nonpartisan, unbiased analyst tell us that 37 percent of seniors with employer-sponsored coverage will lose that coverage if this bill is passed.

These retirees earned their retiree health care benefits. The benefit payments made on their behalf should be counted as their contributions toward the catastrophic cap. They earned their health care coverage. It is a part of their benefit package as a worker and should count just as the wages they pay for their prescription drugs count.

Why is this amendment important?

Employers want to do the right thing but are being squeezed at the bottom line. Prescription drug costs account for about 40 percent to 60 percent of employer retiree health care costs. What does that mean for U.S. employers? U.S. employers face competition from overseas where the cost of health care, including prescription drugs, is subsidized by the Government. What does this mean for U.S. retired workers? Unless this amendment is adopted, a senior could have closer to $10,000 in drug costs before they get the relief of the catastrophic cap. Unless this amendment is adopted millions of seniors could lose their retiree health care coverage.

Under some estimates, this bill would give insurance companies up to $25 billion to provide drug benefits to seniors. Yet thousands of employers already provide quality health care benefits to their retirees, benefits that include prescription drugs.

Congress should use the same test as a doctor would: Do no harm.

In passing this bill, we could decimate the ability of employers to provide health care coverage for their retirees. I think we should fix this.

In conclusion, I urge my colleagues to stand up for American businesses, stand up for America's workers, and stand up for America's seniors and support this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I hear often from many on the other side of the aisle that the Republican Party is the party of big corporations and corporate bailouts: This is a $66 billion, big corporation bailout being offered by Members on the other side of the aisle, $66 billion to corporate America that is already getting a huge benefit under this bill. We are already, by providing prescription drugs to all retirees, giving them the ability to basically back away, as has been discussed, from providing basic prescription drugs and still add on, if they want to add on additional benefits to the bottom line benefit. The cost savings already in the bill to corporations are in the billions and billions of dollars. But that is not enough. We have to give big corporate America another $66 billion so they can provide even more generous benefits to their retirees on top of the generous benefit we have in this legislation.

I find it almost incomprehensible that we are arguing that at a time when we are providing literally tens of billions of dollars—maybe even more than that—to corporate America to help relieve some of their retiree health care costs, now we have to add $66 billion more over the next 10 years to corporate America.

This is a very unwise amendment. It is a very costly amendment, $66 billion. In addition, you are seeing already that corporate America is getting out of the retiree health care business because it is very expensive. One of the reasons we are moving forward with this legislation is because of that. We have seen the percentage of retiree health plans drop from 71 percent to 44 percent just in the last 15 years. This is a trend that is ongoing. One of the reasons we are stepping in with this universal benefit is to address that issue.

To in effect provide an additional amount of money to corporations to basically help them maintain their effort in this area is a folly. It is a very costly proposal and should be, hopefully, defeated.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the argument made by the Senator from Pennsylvania is interesting because what he is basically saying is that it is more important that corporate America not be allowed to keep one out of three of their people they currently sponsor, who are retirees who worked for them and who have been getting health benefits from them, out of the picture.

He talked about the cost to corporate America. My sort of worry is about the cost to the U.S. Government. That is what we do if we don't pass my amendment; we just dump everything on the U.S. Government.

So this amendment will make sure we do not jeopardize the drug coverage of millions of retirees, one out of every three, who already receive drug coverage from employer-sponsored plans. This amendment is going to ensure that the contributions made on the beneficiaries' behalf by their former employers count toward that beneficiary meeting the catastrophic limit. That is not now the case.

Employer-sponsored retiree health benefits are the single greatest source of coverage for retirees—the Presiding Officer understands what I am saying—the single greatest source of retiree health benefits available. In fact, 37 percent of all retirees who have corporate-sponsored plans simply lose them if this does not pass.

The PRESIDING OFFICER. Time has expired.

Mr. ROCKEFELLER. I hope we will pass my amendment. It is worse for employees. It is worse for employers. I hope my colleagues will support the amendment.

Mr. REID. Have the yeas and nays been ordered?

The PRESIDING OFFICER. That is correct.

The Senator from Pennsylvania has 1 minute 39 seconds remaining of the majority time.

Mr. SANTORUM. Mr. President, under the existing legislation, employers are allowed to continue to offer benefits to their employees. Many will. Many will change the structure of the benefit in which they offer to wrap around the existing Medicare benefit, as they do now with Medicare.

Their retiree insurance plans currently wrap around the existing Medicare plan. Future retiree plans will wrap around. Giving corporations $66 billion over the next 10 years as an incentive to give more generous benefits is nothing but a corporate giveaway and costs the taxpayers literally billions of dollars. It is an unwise transfer of Government dollars, taxpayer dollars to big corporations, that already have very generous health care plans, as well as retirement plans. It is not focused on what we should be focusing on here, which is the poorest of the poor.

Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ENZI). Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nebraska (Mr. HAGEL) and the Senator from Indiana (Mr. LUGAR) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. GRAHAM), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—52

Alexander	Crapo	Miller
Allard	DeWine	Murkowski
Allen	Dole	Nickles
Baucus	Domenici	Roberts
Bennett	Ensign	Santorum
Bond	Enzi	Sessions
Breaux	Fitzgerald	Shelby
Brownback	Frist	Smith
Bunning	Graham (SC)	Snowe
Burns	Grassley	Specter
Campbell	Gregg	Stevens
Chafee	Hatch	Sununu
Chambliss	Hutchison	Talent
Cochran	Inhofe	Thomas
Coleman	Kyl	Voinovich
Collins	Lott	Warner
Cornyn	McCain	
Craig	McConnell	

NAYS—43

Akaka	Daschle	Inouye
Bayh	Dayton	Jeffords
Bingaman	Dodd	Johnson
Boxer	Dorgan	Kennedy
Byrd	Durbin	Kohl
Cantwell	Edwards	Landrieu
Carper	Feingold	Lautenberg
Clinton	Feinstein	Leahy
Conrad	Harkin	Levin
Corzine	Hollings	Lieberman

Lincoln	Pryor	Schumer
Mikulski	Reed	Stabenow
Murray	Reid	Wyden
Nelson (FL)	Rockefeller	
Nelson (NE)	Sarbanes	

NOT VOTING—5

Biden	Hagel	Lugar
Graham (FL)	Kerry	

The motion was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 984, AS MODIFIED

Mr. GRASSLEY. It is my understanding that the Senator from New Mexico is ready to modify his amendment. With the modification, I accept that amendment. We would not have a vote. I urge we proceed to the amendment of the Senator from New Mexico for consideration of his modification.

Mr. BUNNING. Reserving the right to object, could we at least understand what the modification is.

Mr. GRASSLEY. The Senator from New Mexico will explain that.

Mr. BINGAMAN. Mr. President, when I came to the Senate floor a few minutes ago, we were just informed by the Republican staff that CBO estimates the amendment we were planning to vote on would cost $5 billion. This is all brandnew information. It is erroneous information, but I have no way to contradict what CBO is saying.

Therefore, I send an amendment to the desk to modify my amendment to request a study by MedPAC on this issue which would come back to us within a year. At that point, we could make a determination as to whether we want to take the action I had originally been proposing. Let me explain.

I ask unanimous consent that I be allowed to modify my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 984), as modified, is as follows:

After section 404, insert the following:

SEC. 404A. MEDPAC STUDY AND REPORT REGARDING MEDICARE DISPROPORTIONATE SHARE HOSPITAL (DSH) ADJUSTMENT PAYMENTS.

(a) STUDY.—The Medicare Payment Advisory Commission established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6) (in this section referred to as ''MedPAC'') shall conduct a study to determine, with respect to additional payment amounts paid to subsection (d) hospitals under section 1886(d)(5)(F) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F))—

(1) whether such payments should be made in the same manner as payments are made with respect to graduate medical education under title XVIII and with respect to hospitals that serve a disproportionate share of low-income patients under the medicaid program; and

(2) whether to add costs attributable to uncompensated care to the formula for determining such payment amounts.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, MedPAC shall submit a report to Congress on the study conducted under subsection (a), together with such recommendations for legislation as MedPAC determines are appropriate.

Mr. BINGAMAN. Mr. President, the issue to which this study will give the answer is the question of whether disproportionate share hospitals that are the same net hospitals, that serve many of the individuals who would not have any health insurance, should continue to receive the DSH payments we have legislated they are entitled to, even after this prescription drug legislation becomes law. I strongly believe they should. My amendment was intended to ensure they receive those payments.

I fear the system we are adopting, which will move people into preferred provider organizations, will in fact reduce the payments to these disproportionate share hospitals, which I don't believe is the purpose or the intention of the Senate. That is the issue.

I urge my colleagues to support the study to give an answer as to whether that problem exists.

Mr. GRASSLEY. As I indicated, we accept that amendment, and I would like to have it adopted on a voice vote.

Mr. BAUCUS. Mr. President, it is unfortunate we did not get the score on the Senator's amendment until just recently. The chairman and I have been in constant contact. I have called several times today the CBO Director in order to get the scores in time for amendments. The good news is Senators have come to us so we are able to prioritize amendments and therefore calls to CBO are on amendments that will be sequenced so we can help them get the scores. We are trying our best to get CBO scores. The Senators can help us and help CBO get the scores by getting amendments to us early so we can sequence them.

On the other hand, it is very helpful if CBO can work as diligently as possible themselves and live up to their side of the bargain and get the scores to us. I hope we do not face this situation again where we get the score moments before an amendment is voted on, even though CBO knew this amendment was coming up; they had at least 24 hours' advance notice.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 984), as modified, was agreed to.

Mr. GRASSLEY. We have had so many Democrat amendments that have been offered. We have reserved time for Republicans to fit in. It is my understanding that Senator SMITH of Oregon is prepared to offer an amendment from our side. I ask unanimous consent that Senator SMITH be recognized.

Mr. REID. Reserving the right to object, will there be a unanimous consent offered for sequencing votes later this afternoon?

Mr. GRASSLEY. Mr. President, in answer to the distinguished Democrat whip, there is an effort being made at the staff level to put together a series of votes. In further response, we are not prepared at this point to ask unanimous consent, but we will have such a request to make for stacking of votes and an order for votes.

Mr. REID. For the information of Senators, my understanding is that the two leaders want to have a series of votes starting at 2:25 this afternoon; is that right?

Mr. GRASSLEY. That is my understanding.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 962

Mr. SMITH. Mr. President, I ask unanimous consent that the pending amendment be set aside and I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. SMITH], for himself and Mr. BINGAMAN, proposes an amendment numbered 962.

Mr. SMITH. 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. SMITH. Mr. President, I rise today to offer this amendment that will protect the health care safety net and ensure access to quality health care for low-income Medicare beneficiaries who rely on our Nation's community health centers. I am pleased to be joined in this by my colleague from New Mexico, Senator BINGAMAN, who has been a strong advocate for the medically underserved. It is a privilege to work with him on this amendment.

This is an issue that affects the entire country, not just my State of Oregon. We all have community health centers. Health centers are the family doctor to more than 13 million people, more than 5 million of whom are uninsured, and nearly 1 million are low-income Medicare beneficiaries.

For many of these individuals, their local health center is the only accessible provider of preventive and primary health care services. While the centers receive Federal Public Health Service Act grant funds to support care for their uninsured patients, they rely on adequate payments from both Medicaid and Medicare for care provided to beneficiaries under both programs.

In 1990, Congress recognized the importance of protecting the integrity of the PHSA grant funds and required that health centers receive reasonable cost payments under the traditional Medicare Part B Program. This action on the part of Congress helped both to ensure that the health centers are reimbursed sufficiently for the provision of care to beneficiaries under the traditional Medicare program, and to protect access to health center services for the uninsured. The amendment we are proposing today simply would extend the same requirement to new Medicare Advantage Programs.

Specifically, the amendment would ensure that health centers are provided with a wraparound or supplemental payment, equal to the difference between the payments they now receive under Medicare generally and the payments they will receive from Medicare Advantage plans. This is not a new concept.

Under current Medicaid law, a health center is reimbursed by a managed care organization the equivalent of what the managed care organization pays any other provider of similar services. In turn, the State Medicaid Program provides a wraparound or supplemental payment for the difference between the managed care organization's payment and the health center's reasonable cost. The absence of a wraparound payment system in the current Medicare managed care program, Medicare+Choice, has left many health centers struggling to provide services to seniors under the program while trying to protect Federal grant funds intended to support care for the uninsured.

In 2001, health centers in my home State of Oregon lost more than $55 for each patient's office visit when they were enrolled under a Medicare managed care plan. In the same year, Oregon health centers lost almost as much revenue as they gained from the Medicare managed care patients. It is estimated this new percentage will grow even larger under the new Medicare Advantage Program. In fact, if current estimates are correct, health centers nationwide can expect to experience an average loss of $35 per office visit under the Medicare Advantage Program. Simply put, what this means is that without a wraparound payment system for health care centers contracting with Medicare Advantage plans, these centers will have no choice but to reach deep into their Federal grant funds, money that is supposed to go for care to the uninsured, in order to make up for the loss in Medicare payments. This will only serve to put further strain on health centers as well as the public safety net overall.

The President and the Congress have called upon this Nation to double the capacity of health centers and build a stronger primary care infrastructure for America's communities. America's health centers are trying to meet that challenge and still meet the health care needs of the Nation's growing uninsured.

In the last 3 years alone, health centers added more than 800,000 new uninsured patients to their roles, raising the number of uninsured Americans served by these centers to one in every eight Americans.

Our amendment would protect the vital mission of health centers to provide access to care to underserved rural and inner city communities. It would also bolster the goal of the President and the Congress to strengthen our health care safety net.

I have a letter in support of my amendment. I ask unanimous consent the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OREGON PRIMARY CARE ASSOCIATION,
Portland, OR, June 23, 2003.

Senator GORDON SMITH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SMITH: On behalf of the 16 public and private, not-for-profit community health centers throughout the State of Oregon, I would like to extend our sincere gratitude for your sponsorship of the amendment to the Medicare reform bill which will implement ''wrap around'' payments for Federally Qualified Health Centers serving seniors under Medicare managed care.

As you know, Federally Qualified Health Centers (FQHCs) serve a critical role in their communities. In Oregon alone, more than 150,000 individuals rely on FQHCs for their primary health care needs each year. In the many rural areas of the state, in particular, FQHCs are often the only primary care providers available to serve Medicare, Medicaid and uninsured patients. The wrap around payments that you have proposed will ensure that FQHCs are adequately reimbursed for the cost of treating recipients of Medicare + Choice and the new Medicare Advantage program. Without adequate reimbursement for treating these Medicare managed care patients, FQHCs would be unable to continue to provide comprehensive, high-quality services to many of the seniors who rely on health centers for their care.

Senator Smith, our state is fortunate to have your leadership in Washington. Thank you again for your support and sponsorship of this measure that will significantly impact seniors and other underserved Oregonians being served by community health centers.

Sincerely,

CRAIG HOSTETLER,
Executive Director.

Mr. SMITH. Senator BINGAMAN and I are convinced that this amendment

goes a long way toward answering the concerns of health centers about how the Medicare Advantage Program will impact their ability to continue to provide high-quality health care services to their patients.

I thank my distinguished colleague from New Mexico for his efforts and his cosponsorship of this amendment and I urge all our colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I congratulate my colleague from Oregon for his leadership on this important issue. We have all worked on a bipartisan basis with the administration to increase our support for community health centers. We have all begun to recognize the very vital role they play in providing health care to many of our citizens throughout the country.

This amendment is absolutely crucial if we are going to ensure that the unintended effect of the legislation before us is not to drain funds away from community health centers as more and more people decide they want to sign up for these preferred provider organizations.

This is crucial legislation. It is very important we do this in the case of the Medicare prescription drug area, just as we did in the case of Medicaid.

I again compliment my colleague and I am honored to be a cosponsor of this amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

PREWAR INTELLIGENCE INVESTIGATION

Mr. BYRD. Mr. President, the news is just on the wires that six British troops have been killed near Basra in Iraq. Every day—every day—brings us sad tidings of American and/or Allied troops being killed in Iraq.

How much longer—how much longer, Mr. President—are our American fighting men and women going to have to remain in harm's way in a foreign land? How much longer are our National guardsmen and women and reservists going to have to be away from home?

The President announced not too long ago that major hostilities had ended. Were we told by this administration how long our military forces will be required to run these terrible risks that daily confront them in this biblical land of Mesopotamia, land between the two great rivers? I often asked the question, before the war began, What is going to be the cost? What is the plan? What is the administration's plan? What about the morning after the war ends?

No announcement has been made at this point that the war has ended, only that major hostilities no longer exist. And then there were public disagreements as to how many Americans would be needed in Iraq to bring about a safe and secure society.

I try to put myself in the place of a father or a husband of one of our military personnel in Iraq. I try to imagine the pain and the suffering on the part of those who wait—who wait—at home for the return of their loved ones.

Last fall, the White House released a national security strategy that called for an end to the doctrines of deterrence and containment that have been a hallmark of American foreign policy for more than half a century.

This new national security strategy is based upon preemptive war—something unheard of in the past experiences, practices, and policies of our Nation—preemptive war against those who might threaten our security.

Such a strategy of striking first against possible dangers is heavily reliant upon interpretation of accurate and timely intelligence. If we are going to hit first, based on perceived dangers, the perceptions had better be accurate. If our intelligence is faulty, we may launch preemptive wars against countries that do not pose a real threat against us or we may overlook countries that do pose real threats to our security, allowing us no chance to pursue diplomatic solutions to stop a crisis before it escalates to war. In either case, lives could be needlessly lost. In other words, we had better be certain that we can discern the imminent threats from the false alarms.

Just 96 days ago, as of June 24, President Bush announced that he had initiated a war to ''disarm Iraq, to free its people and to defend the world from grave danger.'' The President told the world:

> Our nation enters this conflict reluctantly—yet, our purpose is sure. The people of the United States and our friends and allies will not live at the mercy of an outlaw regime that threatens the peace with weapons of mass [destruction].

The President has since announced that major combat operations concluded on May 1. He said:

> Major combat operations in Iraq have ended. In the battle of Iraq, the United States and our allies have prevailed.

Since then, Mr. President, the United States has been recognized by the international community as the occupying power in Iraq. And yet we have not found any evidence that would confirm the officially stated reason that our country was sent to war; namely, that Iraq's weapons of mass destruction constituted a grave threat to the United States—a grave threat to the United States.

We have heard a lot about revisionist history from the White House of late in answer to those who question whether there was ever a real threat from Iraq. But it is the President who appears to me to be intent on revising history.

There is an abundance of clear and unmistakable evidence that the administration sought to portray Iraq as a direct, deadly, and imminent threat to the American people. But there is a great difference between the hand-picked intelligence that was presented by the administration to Congress and the American people when compared against what we have actually discovered in Iraq. This Congress and the American people, who sent us here, are entitled to an explanation from this administration.

On January 28, 2003, President Bush said in his State of the Union Address:

> The British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.

Yet, according to news reports, the CIA knew this claim was false as early as March 2002. In addition, the International Atomic Energy Agency has since discredited this allegation.

On February 5, Secretary of State Colin Powell told the United Nations Security Council:

> Our conservative estimate is that Iraq today has a stockpile of between 100 and 500 tons of chemical weapons agents. That is enough to fill 16,000 battlefield rockets.

But, the truth is, to date we have not found any of this material, nor those thousands of rockets loaded with chemical weapons.

On February 8, President Bush told the Nation:

> We have sources that tell us that Saddam Hussein recently authorized Iraqi field commanders to use chemical weapons—the very weapons the dictator tells us he does not have.

Well, I say to my fellow Senators, we are all relieved that such weapons were not used, but it has not yet been explained why the Iraqi Army did not use them. Did the Iraqi Army flee their positions before chemical weapons could be used? If so, why were the weapons not left behind? Or is it that the army was never issued chemical weapons?

We need answers. We need answers to these and other such questions.

On March 16, the Sunday before the war began, in an interview with Tim Russert, Vice President CHENEY said the Iraqis want ''to get rid of Saddam Hussein and they will welcome as liberators the United States when we come to do that.'' Vice President CHENEY said the Iraqis want ''to get rid of Saddam Hussein and they will welcome as liberators the United States when we come to do that.''

He added:

> . . . the vast majority of them would turn Saddam Hussein in in a minute if, in fact, they thought they could do so safely.

But, today Iraqi cities remain in disorder. Our troops are under attack as well as our allies. Our occupation government lives and works in fortified compounds, and we are still trying to determine the fate of the ousted murderous dictator.

On March 30, Secretary of Defense Donald Rumsfeld, during the height of the war, said of the search for weapons of mass destruction:

We know where they are. They're in the area around Tikrit and Baghdad and east, west, south, and north somewhat.

Well, Mr. President, Baghdad fell to our troops on April 9 and Tikrit on April 14, and the intelligence about which Secretary of Defense Rumsfeld spoke has not led us to any weapons of mass destruction. Whether or not intelligence reports were bent, stretched, or massaged to make Iraq look like an imminent threat to the United States, it is clear that the administration's rhetoric played upon the well-founded fears of the American public about future acts of terrorism. But upon close examination, many of these statements have nothing to do with intelligence because they are, at root, just sound bites based on conjecture. They are designed to prey upon public fear.

The face of Osama bin Laden morphed into that of Saddam Hussein. President Bush carefully blurred these images in his State of the Union Address. Listen to this quote from the President's State of the Union Address:

Imagine those 19 hijackers with other weapons and other plans—this time armed by Saddam Hussein. It would take one vial, one canister, one crate slipped into this country to bring a day of horror like none we have ever known.

Judging by this speech, not only is the President confusing al-Qaida and Iraq, but he also appears to give a vote of no confidence to our homeland security efforts. Isn't the White House the brains behind the Department of Homeland Security? Isn't the administration supposed to be stopping those vials, canisters, and crates from entering our country rather than trying to scare our fellow citizens half to death about them?

Not only did the administration warn about more hijackers carrying deadly chemicals, the White House even went so far as to suggest that the time it would take for U.N. inspectors to find solid smoking gun evidence of Saddam's illegal weapons would put the United States at greater risk of nuclear attack from Iraq.

National Security Adviser Condoleezza Rice was quoted as saying on September 9, 2002, by the Los Angeles Times:

We don't want the ''smoking gun'' to be a mushroom cloud.

''Threat by Iraq Grows,'' this is the headline that was in the Los Angeles Times.

Well, talk about hype. Mushroom clouds? Where is the evidence for this? Where is the evidence for that hype? There isn't any.

On September 26, 2002, just 2 weeks before Congress voted on the resolution to allow the President to invade Iraq and 6 weeks before the midterm elections, President Bush himself built the case that Iraq was plotting to attack the United States.

After meeting with members of Congress on that date, the President said:

The danger to our country is grave. The danger to our country is growing. The Iraqi regime possesses biological and chemical weapons. . . . The regime is seeking a nuclear bomb, and with fissile material, could build one within a year.

Well, these are the President's words. He said that Saddam Hussein is seeking a nuclear bomb. Have we found any evidence to date of this chilling allegation? No.

But President Bush continued on that autumn day:

The dangers we face will only worsen from month to month and from year to year. To ignore these threats is to encourage them. And when they have fully materialized, it may be too late to protect ourselves and our friends and our allies. By then, the Iraqi dictator would have the means to terrorize and dominate the region. Each passing day could be the one on which the Iraqi regime gives anthrax or VX—nerve gas—or some day a nuclear weapon to a terrorist ally.

Yet, 7 weeks after declaring victory in the war against Iraq, we have seen nary a shred of evidence to support the President's claims of grave, dangerous chemical weapons, links to al-Qaida, or nuclear weapons.

Just days before a vote on a resolution that handed the President unprecedented war powers, President Bush stepped up the scare tactics. On October 7, just 4 days before the October vote in the Senate on the war resolution, the President had this to say:

We know that Iraq and the al-Qaida terrorist network share a common enemy—the United States of America. We know that Iraq and al-Qaida have had high-level contacts that go back a decade.

He continued:

We've learned that Iraq has trained al-Qaida members in bomb-making and poisons and deadly gases. . . . Alliance with terrorists could allow the Iraqi regime to attack America without leaving any fingerprints.

President Bush also elaborated on claims of Iraq's nuclear program when he said:

The evidence indicates that Iraq is reconstituting its nuclear weapons program. Saddam Hussein has held numerous meetings with Iraqi nuclear scientists, a group he calls his ''nuclear mujahideen''—his nuclear holy warriors. . . . If the Iraqi regime is able to produce, buy, or steal an amount of highly enriched uranium a little larger than a single softball, he could have a nuclear weapon in less than a year.

Wasn't that enough to keep you awake, Senators? This is the kind of pumped-up intelligence and outrageous rhetoric that was given to the American people to justify a war with Iraq. This is the same kind of hyped evidence that was given to Congress to sway its vote for war on October 11, 2002.

We hear some voices saying, well, why should we care? After all, the United States won the war, didn't it? Saddam Hussein is no more. Iraq is no longer a threat. He is either dead or on the run, so what does it matter if reality does not reveal the same grim picture that was so carefully painted before the war. So what. So what if the menacing characterizations that conjured up visions of mushroom clouds and American cities threatened with deadly germs and chemicals were overdone. So what.

Our sons and daughters who serve in uniform answered the call to duty. They were sent to the hot sands of the Middle East to fight in a war that has already cost the lives of 194 Americans to this moment, thousands of innocent civilians, and unknown numbers of Iraqi soldiers. Our troops are still at risk. Hardly a day goes by that there is not another attack on the troops who are trying to restore order to a country teetering on the brink of anarchy. When are they coming home?

The President told the American people we were compelled to go to war to secure our country from a grave threat. Are we any safer today than we were on March 18, 2003? Our Nation has been committed to rebuilding a country ravaged by war and tyranny, and the cost of that task is being paid for in blood and in treasure every day.

It is in the compelling national interest to examine what we were told about the threat from Iraq. This is not revisionist history. These words are plain English words that I have quoted. It is in the compelling national interest to know if the intelligence was faulty. It is in the compelling national interest to know if the intelligence was distorted. It is in the national interest to know if the intelligence was manipulated.

Mr. President, Congress must face this issue squarely. Congress should begin immediately an investigation into the intelligence that was presented to the American people about the prewar estimates of Saddam's weapons of mass destruction and the way in which that intelligence might have been misused. This is no time for a timid, tippy-toe Congress. Congress has a responsibility to act in the national interest and to protect the American people, and we must get to the bottom of this matter.

Although some timorous steps have been taken in the past few days to begin a review of this intelligence—I must watch my words carefully, for I may be tempted to use the word ''investigation'' or ''inquiry'' to describe this review, and those are terms which I am told are not supposed to be used—the proposed measures appear to fall short of what the situation requires. We are already shading our terms about how to describe the proposed review of intelligence: cherry-picking words to give the American people the impression that the Government is fully in control of the situation, and that there is no reason to ask tough questions. This is the same problem that got us into this controversy about slanted intelligence reports. Word games, lots and lots of word games.

This is no game. For the first time in our history, the United States has gone to war because of intelligence reports claiming that a country posed a threat to our Nation. Congress should not be content to use standard operating procedures to look into this extraordinary matter.

We should accept no substitute for a full, bipartisan investigation by Congress into the issue of our prewar intelligence on the threat from Iraq and the use of that intelligence.

The purpose of such an investigation is not to play preelection year politics, nor is it to engage in what some might call ''revisionist history.'' Rather, it is to get at the truth. The longer questions are allowed to fester about what our intelligence knew about Iraq, and when our intelligence knew it, the greater the risk that American people, whom we are elected to serve, will lose confidence in our Government.

This looming crisis of trust is not limited to the public. Many of my colleagues were willing to trust the administration and vote to authorize war against Iraq. Many Members of this body trusted so much that they gave the President sweeping authority to commence war. As President Reagan famously said, ''Trust, but verify.'' Despite my opposition, the Senate voted to blindly trust the President with unprecedented—unprecedented, unprecedented—power to declare war. Shame. While the reconstruction continues, so do the questions, and it is time to verify.

I have served the people of West Virginia in Congress for half a century. I have witnessed deceit and scandal, coverup and aftermath. I have seen from both parties Presidents who once enjoyed great popularity among the people leave office in disgrace because they misled the American people. I say to this administration: Do not circle the wagons. Do not discourage the seeking of truth in these matters.

The American people have questions that need to be answered about why we went to war with Iraq. To attempt to deny the relevance of these questions is to trivialize the people's trust and confidence.

The business of intelligence is secretive by necessity, but our Government is open by design. We must be straight with the American people. Congress has the obligation to investigate the use of intelligence information by the administration in the open so that the American people can see that those who exercise power, especially the awesome power of preemptive war, must be held accountable. We must not go down the road of coverup. That is the road to ruin.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1004

Mrs. HUTCHISON. Mr. President, I ask that amendment No. 1004, which is at the desk, be called up.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 1004.

Mrs. HUTCHISON. 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 amend title XVIII of the Social Security Act to freeze the indirect medical education adjustment percentage under the medicare program at 6.5 percent)

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 years 2003, 2004, 2005, 2006, 2007, and 2008, 'c' is equal to 1.35; and

''(VIII) on or after October 1, 2008, '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''.

Mrs. HUTCHISON. Mr. President, today I rise, along with Senators KENNEDY, TALENT, BIDEN, KERRY, MURRAY, REED, SPECTER, BOND, CLINTON, FEINSTEIN, and DURBIN to offer an amendment for America's teaching hospitals.

The teaching hospitals in our country perform a vital role in training the doctors and nurses who conduct medical research and provide care to the needy. But the foundation of this essential public service is beginning to crack under the strain of Medicare reductions and a range of other financial pressures.

As my colleagues are aware, the Balanced Budget Act of 1997 made cuts to indirect medical education, called IME, which is an add-on for Medicare reimbursements to teaching hospitals. The add-on was reduced from 7.7 percent in 1997 to 6.5 percent in 1999. Further reductions were scheduled beginning in 2000, but those cuts were delayed until last October, and now the reimbursement rate has been dropped from 6.5 percent to 5.5 percent. That 1 percentage point means our Nation's teaching hospitals will lose almost $800 million this year, $4.2 billion over the next 5 years.

My amendment restores the reimbursement rate to 6.5 percent in fiscal year 2009. By putting this off until fiscal year 2009, of course, we are avoiding any Budget Act point of order.

There are 1,100 teaching hospitals in our country where Americans receive world-class care. Every State has at least one, so every Senator will have affected constituents. Teaching hospitals train nearly 100,000 doctors every year, and chances are, Mr. President, your physician and mine were trained at teaching hospitals.

In 1983, the Federal Government recognized that teaching hospitals cost more than their nonteaching counterparts because they incur costs to train our health care providers of the future. They provide clinical research in new procedures, technology, and treatments. Perhaps most importantly, they ensure a steady stream of high-quality physicians who are equipped to meet the health care challenges of the 21st century. They are also a major provider of indigent care in the United States. But education and training costs extra money.

The Government added the IME payment to encourage teaching hospitals to invest in our future, but, unfortunately, we have chipped away from 11.6 percent in 1983 to today's rate of 5.5 percent, which is a factor based on a hospital's resident-to-bed ratio included in Medicare reimbursement. We cannot continue to decimate funding at these hospitals that educate our medical students and expect quality medical care in the 21st century.

Teaching hospitals in Texas have lost $26.8 million in reimbursements in 2003 alone. Our State is not the hardest hit. New York lost $141 million; Pennsylvania, $78 million; and Michigan, $50 million.

One example in my State exemplifies what is happening in every teaching hospital in our country. Methodist Hospital in Houston trains more than 200 residents a year and works closely with Baylor College of Medicine to effectively train physicians in radiology, cardiology, and neurology with the newest technology. Methodist purchased an MRI machine for $4.5 million. That MRI will not only provide preventive medicine to help diagnose illnesses sooner, it also teaches the next generation of health care professionals what they cannot learn in the classroom.

This week, as we debate Medicare reform, it is imperative to reaffirm our commitment to America's teaching hospitals as these hospitals are in financial distress. If we do not restore funding, not only will they suffer, so will our health care system, particularly patient care.

I ask for the support for this amendment. I ask for the yeas and nays. I will ask for unanimous consent to stack the next two votes, but I also ask unanimous consent the vote on my amendment be in the next series of votes.

Mr. REID. Reserving the right to object, it is my understanding the Senator has asked that following the Dodd vote we vote on Pryor and Boxer.

Mrs. HUTCHISON. I was going to offer that unanimous consent.

Mr. REID. Did you ask unanimous consent on something else?

Mrs. HUTCHISON. I was going to ask unanimous consent for the Pryor amendment and the Boxer amendment and then ask my amendment be in the next series of votes.

Mr. REID. Mr. President, I reluctantly have to object. I personally

could care less, but until the two managers are here—unless you have cleared it with the two managers.

Mrs. HUTCHISON. No, I have not.

The PRESIDING OFFICER. The objection is heard.

The Senator from Texas has requested the yeas and nays. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mrs. HUTCHISON. I ask unanimous consent following the vote this afternoon in relation to the Dodd amendment No. 969, the Senate vote consecutively in relation to the following amendments: Pryor amendment 981, Boxer amendment 1001; provided further that there be 2 minutes equally divided between each of the votes with no amendments in order to the amendments prior to the vote.

Mr. REID. We do not object.

Mrs. HUTCHISON. And I ask the Democratic leader work with me to be in the next series of votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I say to the distinguished Senator from Texas we will try to do that. It seems the right thing to do.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Continued

AMENDMENT NO. 969

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, there will now be 10 minutes evenly divided prior to a vote in relation to the Dodd amendment, No. 969.

Mr. DODD. Mr. President, do I need to ask unanimous consent the present amendment be temporarily set aside?

The PRESIDING OFFICER. That is unnecessary.

Mr. DODD. Mr. President, in the 5 minutes I have, let me discuss it very briefly with my colleagues.

This amendment would allow Medicare beneficiaries the freedom to move between plans for the first 2 years that this benefit is in effect, from 2006 to 2007. Under the present bill, you have to make a decision immediately and then you are locked into that decision for a year. Then you would have an open enrollment period for a month after that, and then you would be locked in for another year.

What we are offering with this amendment is initially seniors be given a 2-year window in order to decide which plan works best for them. Then you would go to the 1 year with the 1-month open enrollment. But, initially, given the tremendous amount of potential confusion about which of these various alternatives would work best for people, they ought to be given a bit more time than to have to make an almost instantaneous decision about which of these plans is best suited for them.

One of the hallmarks that has been used to describe this bill is it is to give people choice—flexibility and choice. All we are suggesting is an additional 2 years, if you will, not requiring an immediate decision but a 2-year window in order to make that choice so people are more well informed.

There are a number of areas in the underlying bill that do not go nearly far enough, in my view, to serve Medicare beneficiaries. But I believe this is a good first step, at least as presently proposed. I am inclined to be supportive of this bill. These are some small points I think could help make this a better bill.

If enacted, the underlying bill would require, as I mentioned, Medicare beneficiaries to choose a prescription drug plan and to stay with that plan for a minimum of 1 year. With the enactment of such broad and sweeping changes in the Medicare Program, I am fearful many Medicare beneficiaries will face great uncertainty trying to find the best plan to meet their particular needs. Beneficiaries would be faced with a menu of plans offering varying premiums, copayments or coinsurance, drug formularies, and all the other variables that make up a prescription drug benefit. It may not be immediately clear to people over the age of 65 which of these plans is going to best suit their needs. It is not difficult to imagine a scenario where this could become a significant problem, possibly even affecting the health and well-being of the beneficiary we are trying to assist with this legislation.

A senior on a tight budget might enroll in a plan in an area that offers slightly lower premiums and coinsurance. Perhaps that beneficiary is on blood pressure medication and, after enrolling in the plan, discovers the particular medication—which she has been taking for years and has proven to be effective for a condition, with minimal side effects—is not part of the formulary for the plan she chose immediately.

What I am suggesting is, What are her options? As the bill is currently written, she is stuck with that plan for at least a year. So she can try to navigate the hurdles and obstacles that would allow her to take an off-formulary drug, or switch to another drug that might not be as effective or cause severe side effects. These are not optimal choices.

One of our stated goals is to give seniors as much of a choice as possible, and I am firmly behind that goal, as I mentioned at the outset of these remarks.

I do not want to suggest for a second that we should reduce choice or create simplicity, nor do I question the importance of cost-control mechanisms such as formularies. However, with choice and differentiation comes uncertainty. I believe we can greatly relieve this uncertainty by allowing those initially choosing prescription drug plans for the very first time the opportunity to move from one plan to another to determine which of these plans offers the best plan to fit their needs, and to give them the opportunity of doing that for a 2-year period, and then go to the open enrollment period and a 1-year after that.

I asked people in my own State to take a look at this proposal. In fact, this language comes from them. Their suggestion is this language I have on this chart. I will read from it:

> The amendment which you are proposing is essential to ensure fair and informed access to the health plans which are planned under the terms of S. 1.

By the way, these people are very much supportive of what Senator GRASSLEY is doing in this bill. They say:

> Our experience with Medicare beneficiaries in Connecticut and nationally has shown that the ability of a Medicare beneficiary to change from plan to plan, especially during the period after initially choosing a plan, is of utmost importance. Making choices about which health plan is best is often confusing for a Medicare beneficiary, especially for those who are elderly, frail or having medical problems. Comparing plans and choosing the right plan can be a complicated process, and Medicare beneficiaries who discover they have not made the most informed choice, whose experience with a plan demonstrates it is not adequate to meet their needs, or who have changes in their life circumstances, need to have some ability to change from one plan to another. Only with this ability to change can they be assured the opportunity to receive the kind of health care they want, and the fullest health benefit they need, to meet their individual circumstances under the Medicare program.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I ask unanimous consent for 30 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. All we are asking is, instead of forcing people to make that initial decision, they be given that 2-year window to sort this out. And then you move into the 1 year and the window opens, and so forth. I do not think this has any significant financial implications. It is just allowing people to make intelligent, good choices which all of us want to provide people, particularly older Americans who could be terribly confused by choosing formularies and coinsurance and copayment plans. All that has to be done at the outset once this bill becomes law.

I have used a little more time than I said I would to try to explain the amendment, but I want it to be clear to my colleagues why I think this is a

very reasonable suggestion to make an improvement to this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I thank the Presiding Officer for his indulgence.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I ask unanimous consent that my colleague, Senator LIEBERMAN, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DODD. Mr. President, if they don't want to talk, I will be glad to take a little more time to explain this amendment.

Mr. GRASSLEY. Mr. President, I will yield the man 1 minute of my time.

Mr. DODD. Mr. President, I thank the man from Iowa for yielding the 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. DODD. The man from Connecticut appreciates the man from Iowa giving him 1 more minute.

Mr. President, very briefly, the existing underlying bill says you have to make this choice about which plan you want to go into almost immediately once this proposal becomes law. We are suggesting that at the outset you give people a 2-year window to shop wisely. They may make the decision right away. They may make it within a month or two. But knowing how confusing this can be, knowing that different formularies provide for different medications, we ought to provide people at least some opportunity to get this right to the extent they can. So this is merely opening up that window from an immediate choice to a 2-year choice—anytime within that 2 years to make that right choice.

There have been some who wondered, if you move from one plan to the next, what are the cost implications? I will be glad to respond to that. We do not think that is terribly complicated to figure out. If you have reached your deductible levels, obviously, the same would have to apply. You would not start all over in that 1-year period. So whatever costs you have incurred, whatever expenditures you have made or not made would move from one plan to the next, at least as far as the cost goes.

So the additional time should not have any additional financial or fiscal implications but merely the choice of saying to people, who are older Americans: You get a little more time to sort this out. That is all I am suggesting with this amendment.

I would hope the committee might support it. It is not a radical proposal.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

I know the Senator from Connecticut has well-intentioned motivations behind his amendment. The reason why I oppose the amendment is not because of any ill intent. But we have very carefully crafted this product before us after the Federal Employees Health Benefits Plan and the open season and the practice there. As far as I know, we do not run into Federal employees complaining because they cannot change more often than once a year. So I am going to ask my colleagues to vote against this amendment.

It has some costs. I will speak about that. The open enrollment period in S. 1, as I said, is modeled after the annual open enrollment period of the Federal Employees Health Benefits Plan. I believe this program has been in place for more than 40 years, so we have a lot of experience with it. Consequently, it is a good pattern for us to craft the legislation before us for senior citizens in retirement for their health benefits.

Each year seniors would be able to examine the choice of plans and select the plan that is best suited to their needs. The amendment before us proposes to allow seniors to change plans more than once during a continuous open enrollment period that would last for 2 years. While this may seem a good idea on the surface, it is an invitation, I believe, to more expensive health care for our seniors. I think it is going to lead to chaos and plan instability.

It is very important, at least in the opening years, as we get these new programs underway that there be some predictability in order to encourage more plans to compete. The more plans competing, the better benefits we ought to get for our seniors at a lower price.

It seems to me that providing a long, continuous open enrollment period allows any and all seniors to wait until they are sick before enrolling in a more comprehensive plan. You can understand that we need to have a situation where people are seen buying insurance and doing it in a way in which they manage their own risk as opposed to doing it in the case of only an emergency. This is where you get the insurance aspect that is so important in what we are trying to accomplish.

So if you do that, as the Senator from Connecticut suggests, it is going to add costs to the program because it permits healthy enrollees to stay in the cheaper basic plan until an illness drives them to a generous plan. The generous plan then would become the plan just for sick enrollees.

I have a statement here that the CBO says this would have a cost of $8 billion over the years 2004 to 2008, and $23 billion for the 10-year period 2004 to 2013.

I am going to yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

Mr. DODD. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, this is one time. Unlike Federal employees, who are 30 or 35 years of age, this plan is all new. What we are saying is, for the very first 2 years—that is all, just the first 2 years—give seniors the flexibility so they do not have to sign up for a plan immediately. You get a couple years within that timeframe to make your choice, then you go into the 1-year cycle as all the rest of us do. But for older Americans, it is very confusing—very confusing—for them to have to make that choice at the get-go, right at the very beginning. So that 2-year window, to have some flexibility to make a choice that best serves your interest, I think is a reasonable request to make for our older Americans. That is the end of it.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for an equal 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I have some sympathy for what the Senator from Connecticut says because so many times I have said to my constituents, this is voluntary. You are going to have your choice to go into another plan or change plans. I emphasize the ability to change plans. In addition, we have to have some stability even in the early years. Most importantly, when we are developing a new prescription drug benefit, the most vast improvement in Medicare in 35 years, I think it demands more stability than when you get down the road a ways.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table amendment No. 969. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LEIBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—55

Alexander	Chambliss	Fitzgerald
Allard	Cochran	Frist
Allen	Coleman	Graham (SC)
Baucus	Collins	Grassley
Bennett	Cornyn	Gregg
Bond	Craig	Hagel
Breaux	Crapo	Hatch
Brownback	DeWine	Hutchison
Bunning	Dole	Inhofe
Burns	Domenici	Jeffords
Campbell	Ensign	Kyl
Chafee	Enzi	Lott

Lugar	Santorum	Sununu
McCain	Sessions	Talent
McConnell	Shelby	Thomas
Murkowski	Smith	Voinovich
Nelson (NE)	Snowe	Warner
Nickles	Specter	
Roberts	Stevens	

NAYS—42

Akaka	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Miller
Boxer	Feinstein	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Pryor
Carper	Inouye	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—3

Graham (FL)	Kerry	Lieberman

The motion was agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the remaining two votes in this series be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 981

The PRESIDING OFFICER. Who yields time on the Pryor amendment?

The Senator from Arkansas.

Mr. PRYOR. I thank the Chair.

Mr. President, the United States may be the only country in the world that does not protect its population from price gouging when it comes to prescription drugs. Last week, the Senate took a very important step in eliminating that by adopting the Dorgan-Cochran amendment by a vote of 62 to 28 to allow the reimportation of prescription drugs from Canada.

This amendment gives that amendment teeth. It gives HHS 2 years to act, and if they do not act within 2 years, then it becomes illegal for prescription drug companies to sell their products in the United States for more than they sell them in Canada.

Some people call this price control. I respectfully disagree, but if you call it price control, that means 62 of us last Friday stood up for price controls. What it does in reality is introduce competition on prices.

There is one drug called tamoxifen. Tamoxifen is a fantastic breast cancer drug. One could buy it before it became generic for $241 for 60 pills in the United States, and for $34 for 60 pills in Canada. The difference between $241 and $34 is very significant, and that is what we are trying to fix.

I thank the Chair.

Mr. SANTORUM. Mr. President, I hope my colleagues can hear me. What the Pryor amendment does has nothing to do with reimportation. What it says is, if the Secretary does not certify that the drugs are safe coming from Canada after 2 years, we will adopt the Canadian pricing scheme for pharmaceutical products in this country. So the Government of Canada will set prices for pharmaceutical drugs in this country. We will be ceding to the Government of Canada the right to set prices for drugs in the United States of America.

If we want to have price controls for drugs, we should have a debate to do that, but we should not be ceding to a foreign government the right to set drug prices in this country, and that is what this amendment does.

Whether you are for reimportation, whether you are for price controls for drugs, do not give up the right to set the price controls to a foreign government who will set them for the United States. And that is what this amendment does. I urge an overwhelming negative vote.

The PRESIDING OFFICER (Mr. CRAPO). The question is on agreeing to the amendment.

Mr. REID. The yeas and nays are not in order.

Mr. SANTORUM. I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 31, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—66

Alexander	Craig	Lugar
Allard	Crapo	McCain
Allen	DeWine	McConnell
Baucus	Dodd	Mikulski
Bayh	Dole	Murkowski
Bennett	Domenici	Murray
Biden	Ensign	Nelson (NE)
Bingaman	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Carper	Hatch	Specter
Chafee	Hollings	Stevens
Chambliss	Hutchison	Sununu
Cochran	Inhofe	Talent
Coleman	Jeffords	Thomas
Collins	Kyl	Voinovich
Cornyn	Landrieu	Warner
Corzine	Lott	Wyden

NAYS—31

Akaka	Feingold	Miller
Boxer	Feinstein	Nelson (FL)
Byrd	Harkin	Pryor
Cantwell	Inouye	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Daschle	Kohl	Sarbanes
Dayton	Lautenberg	Schumer
Dorgan	Leahy	Stabenow
Durbin	Levin	
Edwards	Lincoln	

NOT VOTING—3

Graham (FL)	Kerry	Lieberman

The motion was agreed to.

AMENDMENT NO. 1001

The PRESIDING OFFICER. There are 2 minutes equally divided for consideration of the Boxer amendment.

Mrs. BOXER. Mr. President, I would like to explain in 1 minute a very important amendment that will really improve this bill. This amendment is endorsed by the AARP—they feel very strongly about it—in addition to the other major seniors organizations to preserve Social Security and Medicare. In the bill right now, there is a benefit shutdown when you reach $4,500 worth of purchased drugs. That means seniors will face a $1,300 deficit before they start getting the benefit. I will just implore my colleagues, there is not any other prescription drug plan in this country that does this. This is a really terrible problem for our people. Just when they need help the most, they stop getting help.

I conclude, since we have so little time, by reading what AARP says:

> AARP members find the notion of a gap in coverage to be a major barrier to enrolling in a Medicare drug benefit. They tell us that they are unaware of similar features in any of the insurance products they routinely purchase.

In closing, they say:

> . . . we urge the Senate to eliminate this coverage gap.

Please make this bill better, friends. It is the least we can do for seniors.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise in opposition to make four points.

First, we had an additional $30 billion when this bill was originally marked up in the Finance Committee. We put all $30 billion into filling the donut, so we have done as much as we can with the money allocated.

Second, this amendment costs $64 billion. We would bust the agreement, which is to stay within the budget of $400 billion.

Third, according to CMS, only 2 to 12 percent—depending on your estimates—are going to be affected by this ''coverage gap.''

Finally, there is no standard benefit. This is sort of a mystery I don't know why we don't talk about more. This is a typical design of what a benefit would look like. But under this bill, the companies bidding on these pharmaceutical contracts can design the benefit any way they want. They can have a donut. They do not have to have

a donut. The only thing they are required to do is have a $275 deductible for those plans of 160 percent of poverty and above and have $3,700 in total spending before the catastrophic kicks in. The donut is illusory, and I ask my colleagues to vote no on the amendment.

Ms. MIKULSKI. Mr. President, I rise today in strong support of the amendment No. 1001 offered by my colleague from California, Senator BOXER.

The Senate is debating legislation to provide seniors with prescription drugs that is a start but there are also many shortcomings with this bill. One of most glaring shortcomings is the gap in drug coverage. It doesn't make sense. As drug costs rise, benefits get shut off and seniors with high drug costs have to pay all of their drug costs from $4,500 to $5,800. I think that is cruel.

How would this amendment address this shortcoming?

It is simple. This amendment would let seniors continue to have continuous coverage until you hit the catastrophic cap of $5,800 so that means no gap. And, then your copay would drop to 10 percent just like in the bill. No figuring out when you hit the coverage gap. No figuring out how long you are going to be in the hole. No paying premiums and not getting benefits. You simply get drug coverage.

Why is this amendment important?

The coverage gap imposes a ''sickness tax'' on seniors. Once drug spending reaches $4,500 and this is a senior who clearly is facing serious health problems this senior would now have to pay $1,300 of their own money without any help from the Government even though they are still paying premiums to stay in the plan.

What does this mean?

Millions of our seniors will have no drug coverage for several months out the year. Their coverage will just stop and for many; it may not start back up again until the next year.

This is wrong. I believe honor thy mother and father is not just a good commandment to live by, it is good public policy to govern by. That is why I feel so strongly about Medicare. Congress created Medicare to provide a safety net for seniors. I don't think there should be any holes in that net. That is why I support this amendment and urge my colleagues to also.

The PRESIDING OFFICER. The Senator's time has expired.

The yeas and nays have been previously ordered on this amendment.

Mr. SANTORUM. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table amendment No. 1001.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote ''nay''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 42, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—54

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Baucus	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Chafee	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Jeffords	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NAYS—42

Akaka	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Harkin	Nelson (NE)
Cantwell	Hollings	Pryor
Carper	Inouye	Reed
Clinton	Johnson	Reid
Conrad	Kennedy	Rockefeller
Corzine	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—4

Campbell	Kerry
Graham (FL)	Lieberman

The motion was agreed to.

Mr. GRASSLEY. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that all pending amendments be laid aside so that the Senator from New Jersey may offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, is the Senator going to speak? I could not hear.

Mr. BAUCUS. I withdraw the request. I ask unanimous consent that there be 30 minutes equally divided on the Lautenberg amendment and, immediately following that debate, the Senate vote on the Lautenberg amendment.

Mr. SESSIONS. Reserving the right to object, I just want to call up an amendment and set it aside. Will the Senator agree we can do that?

Mr. LAUTENBERG. I did not hear the request. Was the Senator asking a question of me?

Mr. SESSIONS. Mr. President, I was asking unanimous consent that I be allowed to call up an amendment for 30 seconds and set it aside before the Senator from New Jersey commences his remarks.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. BAUCUS. I yield the floor and withdraw my request.

The PRESIDING OFFICER. The Senator from Alabama may state his request.

AMENDMENT NO. 1011

Mr. SESSIONS. Mr. President, I call up amendment No. 1011.

The PRESIDING OFFICER. The Chair will interpret the Senator's request as a unanimous consent request to set aside all pending amendments. Is there objection to setting aside all pending amendments?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 1011.

Mr. SESSIONS. 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 express the sense of the Senate that the Committee on Finance should hold hearings regarding permitting States to provide health benefits to legal immigrants under medicaid and SCHIP as part of the reauthorization of the temporary assistance for needy families program)

Strike section 605 and insert the following:

SEC. 605. SENSE OF THE SENATE REGARDING HEALTH INSURANCE COVERAGE OF LEGAL IMMIGRANTS UNDER MEDICAID AND SCHIP.

(a) FINDINGS.—The Senate makes the following findings:

(1) In 1996, in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105)(commonly referred to as the ''welfare reform Act''), Congress deliberately limited the Federal public benefits available to legal immigrants.

(2) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 allows a State the option of electing to offer permanent resident legal aliens that have been living in the United States for at least 5 years the same benefits that their State citizens receive under the temporary assistance for needy families program (commonly referred to as ''TANF'') and the medicaid program.

(3) As of the date of enactment of this Act, 22 States have elected to give the permanent resident legal aliens who reside in their States the same TANF and medicaid benefits as the States provide to the citizens of their States.

(4) This Act, the Prescription Drug and Medicare Improvement Act of 2003, is not a welfare or medicaid reform bill, but rather is a package of improvements for the medicare program that is designed to provide greater access to health care for America's seniors.

(5) The section heading for 605 of this Act as reported out of the Committee on Finance, was titled ''Assistance with Coverage of Legal Immigrants under the medicaid program and SCHIP,'' and, as reported, related directly to the provision of benefits under

the medicaid and State children's health insurance programs, not to benefits provided under the medicare program.

(6) The reported version of section 605 would have directly overturned the reforms made in the 1996 welfare reform Act.

(7) The reported version of section 605 would have greatly expanded the number of individuals who could receive benefits under medicaid and SCHIP.

(8) No hearings have been held in the Committee on Finance of the Senate concerning why the 5-year residency requirement for legal aliens to obtain a Federal public benefit established in the welfare reform Act needs to be overturned or why the reported version of section 605 should be included in a medicare reform package.

(9) Congress must reauthorize the temporary assistance for needy families program later this year and should hold hearings regarding whether the 5-year residency requirement for legal aliens to obtain a Federal public benefit should be overturned as part of the reauthorization of that program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings in connection with the reauthorization of the temporary assistance for needy families program, or in connection with reform of the medicaid program, regarding whether the 5-year residency requirement for legal aliens to obtain a Federal public benefit that was established in the 1996 welfare reform Act should be overturned for purposes of the medicaid and State children's health insurance programs.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the amendment be set aside for consideration at the appropriate time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I want to be certain of the order. My amendment is at the desk. What I want to do is in the time allocated to me—which I understand is 15 minutes per side; is that correct?

The PRESIDING OFFICER. At this point, no such order has been entered.

Mr. LAUTENBERG. I thank the Chair.

AMENDMENT NO. 982

Mr. LAUTENBERG. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mr. REED, Mr. REID, Mrs. CLINTON, and Mr. CORZINE, proposes an amendment numbered 982.

Mr. LAUTENBERG. 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 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 part D of title XVIII beginning on July 1, 2004.

Mr. LAUTENBERG. Mr. President, I rise to talk about my amendment which is designed to change the effective date of this bill.

My amendment is cosponsored by Senators REED of Rhode Island, REID of Nevada, CLINTON, and CORZINE.

My amendment is very simple: Let's give our seniors a prescription drug benefit just as quickly as we can. They need it now. Let's not delay any longer than practicable to get it into place.

Under the current proposal, comprehensive drug coverage does not start until July 2006. Imagine that, 2006. It is not fair to seniors who are expecting a benefit almost immediately. They will have seen President Bush sign a bill with some fanfare and will have seen lots of Members of Congress crowding the stage with him, and everyone will say: We have put a prescription drug benefit into place. When seniors learn that the benefit begins in 2006, they are going to feel deceived, tricked, and angry.

My amendment changes the effective date of the coverage to July 1, 2004. There is not any reason to have our seniors wait any longer for a prescription drug benefit.

The original Medicare plan was signed into law by President Johnson on July 30, 1965, and 11 months later, July 1, 1966, all persons eligible were enrolled. The entire system for Medicare was created in just 11 months.

When we look at this chart, we see what is planned with the Bush/Senate prescription drug benefit. We are looking at 30 months, and we are looking at the creation of an entire Medicare system which took just 11 months to put in place. That was done without the luxury of today's high-speed computers. It was just President Johnson and his administration getting the entire system in place in 11 months.

My amendment essentially follows the same timetable. If President Johnson was able to create the entire Medicare system in just 11 months, then surely President Bush should be able to add a drug benefit in the same amount of time.

Look at the timeline the President has set for this Medicare drug proposal: 30 months. Why so long? Our clue is, what? Election day. That is illustrated on this chart. Sixteen months from now, this prolonged effective date is conveniently well past election day.

The administration's Medicare agency, CMS, says it needs 30 months. That is very convenient timing for political purposes, but it is terrible timing for America's seniors.

President Johnson, a true Texan, had a can-do attitude, and there is no reason this administration cannot dedicate itself to completing this task in 11 months. We need to give seniors meaningful drug coverage as soon as possible, not 2006.

The reality is that 5.5 million seniors currently on Medicare will not be alive in 2006. If there are insufficient funds in the budget for this amendment, then it is the result of choices made by the President and his party. They chose to provide a massive tax cut to the wealthiest among us, and they chose it at the price of Medicare.

The issue is simple: If we give a prescription drug benefit, why would we want to withhold it? This bill is about fooling the American people about the mission here. It is more about elections than correcting the problems associated with a prescription drug program. I urge my colleagues to support this amendment.

Mr. President, we have some time remaining. How much time remains on our side?

The PRESIDING OFFICER. There is no set amount of time. The Senator has consumed 5 minutes.

Mr. LAUTENBERG. Mr. President, I yield the floor. I know the Senator from Nevada is interested in speaking.

Mr. GRASSLEY. Mr. President, I yield myself such time as I may consume in opposition to the Lautenberg amendment.

The PRESIDING OFFICER. The Senator has the floor.

Mr. GRASSLEY. Maybe I should ask, are we under time constraints?

The PRESIDING OFFICER. There are no time constraints.

Mr. GRASSLEY. What the Senator from New Jersey wants to do I wish we could do. I personally was somewhat astounded when we asked experts at the Congressional Budget Office, experts at the Office of Management and Budget, experts in the Department of Health and Human Services, how much time it would take to get this new prescription drug program underway. We were advised to start it in the year 2006.

In an ideal world, all seniors would have access to our comprehensive prescription drug benefit next year. But our plan, I am sorry to say, cannot go into effect until 2006. Therefore, we need to do something to help our seniors right now. Part of S. 1 does that. They have been doing it because seniors, as I am sure the Senator from New Jersey is trying to respond to, have been waiting a very long time for Congress to act and pass a prescription drug benefit, in the end, helping them with the tremendous costs they are paying for prescription drugs.

This obviously is not satisfying to the Senator from New Jersey who would like to get this plan underway much sooner. Because of the waiting period until the year 2006 to get the very comprehensive program underway, we included in our plan a temporary prescription drug discount card. This is a voluntary program that all seniors can partake of next year. It is available for an annual fee costing no more than $25. Since our low-income seniors need extra help, this fee would be waived. It provides for a 10-percent

to 25-percent discount on all costs of prescription drugs. There are some seniors for whom even a 10-percent to 25-percent discount is still a hardship to purchase prescription drugs. So we have added to this for really low-income seniors to receive a $600 annual help in purchasing prescription drugs during this interim period of time, 2004 and 2005. They will be required to pay a minimal copayment of 10 percent when the spending of the $600 subsidy is in place. Spouses who receive the low-income benefit are also allowed to pool share their deposits.

When the comprehensive drug program begins January 1, 2006, the discount card program automatically ends. However, low-income seniors will be able to use their allotment of $600 until June 2006.

Almost 10 million Medicare beneficiaries with significant prescription drug needs will realize savings from this endorsement program. The Center for Medicare Services projects that the Medicare beneficiaries will save between $1.2 billion and $1.6 billion in the program the very first year.

As I said, I feel, not for reasons I like to give to my fellow Senators, that we cannot expect this comprehensive new prescription drug program for seniors, which happens to be the first major improvement in strengthening of Medicare since 1965, to go into effect. Maybe we can push and push and push, but this first major expansion of Medicare in 38 years ought to be carefully done and done right. Consequently, that is why we have deferred to the judgment of the Congressional Budget Office, Office of Management and Budget, as well as the Secretary of HHS. We have tried to compensate for the long period of phasing with the discount card and the $600 subsidy.

I wish I could do more. I wish I could vote for the Senator's amendment but I cannot. I ask my colleagues to vote against it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I say to our friend from Iowa, the discount card allows somewhere between 10 and up to 25 percent. With seniors spending an average $2,300 a year on medication, even a 20-percent discount does not provide nearly enough relief. Frankly, it is hard to understand why it has to take 2½ years to get the program into place. I rather suspect it has less to do with the perfection of the program than it has to do with some other cause. It cannot take that long. We have all of these seniors on record. They are medical enrollees now. Why can't we get this going?

As a matter of fact, my colleague from Minnesota, who is going to say something, thinks it should be done in an even shorter period of time than my amendment provides.

I ask my colleague if he would like to say something. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I join with my Senator from New Jersey. He persuaded me to be reasonable. This is the reasonable alternative proposal, July 1 of 2004. I have great respect for the chairman of the Senate Finance Committee, the Senator from Iowa. I sense his difficulty because I don't believe the senior citizens of anywhere else in America will be any different from the senior citizens of Minnesota who will be, I believe, absolutely beside themselves to learn this program they have waited years for Congress to enact will be enacted but it will not be ready for 2½ years.

I suggest perhaps one of the reasons is that this is not a system that can be easily put in place or administered. The chairman is trying to accommodate, if I understand his remarks correctly, the administration, the Office of Management and Budget, and the Secretary of Health and Human Services. They said this program as designed cannot be put together and administered and operational until January 1, 2006.

I suggest that is pretty strong evidence that is not a very good system for delivery of these services. We have insurance companies that are going to be providing policies—they are in the business of providing insurance for people. It can't take them 2½ years to design this program. Regarding CMS or HHS, the Department itself, we hear from this administration how their management of Government is so much improved over their predecessor's. Is it going to take them 2½ years to design this program when, as my colleague from New Jersey, Senator LAUTENBERG, pointed out, 40 years ago they were able to take the whole Medicare Program and put that in effect in 11 months?

Not only do I support the amendment offered by Senator LAUTENBERG, but I have to say for those who are advocating this as the preferred alternative to extending Medicare to cover prescription drugs, if they cannot get the program up and running in a lot less than 2½ years—either 6 months as I would propose, or a year—then this is the wrong program because this is not a viable alternative, and it is not viable for the senior citizens of Minnesota or anywhere else, in my judgment.

To say people are going to get a discount card—they can get discount cards already. They don't need Congress to do anything more than that for 2½ years.

Just taking the figure the Senator from Iowa offered, if I understand it correctly, of savings for seniors in America, Medicare beneficiaries, of $1.26 billion the first year, it sounds like a lot of money—it is a lot of money—but there are 40 million Medicare beneficiaries in the country. If you divide $1.26 billion in savings by those 40 million, that is about $30 per Medicare beneficiary in the first year.

We are going to go back with this to the senior citizens of Minnesota, and those with disabilities who are being crushed by these prices, who see them going up all the time due to the greed and profiteering of the pharmaceutical industry. We are told here we have a bill, because it is the only one the majority of the Senate will agree to, that is not going to do anything—nothing at all, under our Government, on behalf of seniors and on behalf of all American consumers of prescription drugs, to bring these prices down. Instead, they are going to get a discount card that is going to save them on average $30 a year? We ought to be ashamed of ourselves, first of all. This bill is not what it is purporting to be, which is real relief for anybody who needs it now, not January 1, 2006.

If my colleagues do not support this, I think we are sending a very strong message to America that this is not a viable program to begin with, and the pharmaceutical industry has, one more time, succeeded in putting their profits ahead of the needs of people in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I know the Senator from New Hampshire would like to go ahead. I will speak for just a minute or 2 before he does.

I very much agree with the Senator. It seems absurd that we have to wait until 2006 before this program goes into effect. I very much understand the concern of the Senator.

Let me say this to all of us who are concerned. Before the conference report comes back, I am going to do my level best by pushing the CBO and CMS, asking a lot of tough questions of these agencies, to see if there is some way we can get this put together earlier. It is my hope we could bring back a conference report that has an earlier date, significantly earlier date. My guess is the private sector could get this done pretty quickly. It would not take a full 2 years to get it done.

I just pledge to my colleagues, this is one Senator who is going to do his level best to try to get an earlier date. The current date just doesn't make sense. We need to ask some tough questions and get some answers.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. If the Senator from New Hampshire will just give me a minute, I have a unanimous consent request on votes coming up I would like to propound.

I ask unanimous consent that at 4:20 the Senate proceed to a vote in relation to Dayton amendment No. 957, to be followed by a vote in relation to the Lincoln amendment, No. 1002; to be followed by a vote in relation to the Lautenberg amendment, No. 982, with 2 minutes equally divided for debate for each succeeding vote after the first; further, that no amendments be in order to the amendments prior to the votes; and finally that the second and

third votes be limited to 10 minutes in length.

I ask unanimous consent that prior to the first vote, Senator SUNUNU be recognized for up to 5 minutes in order to offer an amendment.

Mr. REID. Reserving the right to object, I ask the vote occur at 4:25 and I be given 5 minutes after Senator SUNUNU.

Mr. GRASSLEY. I modify my unanimous consent request accordingly.

The PRESIDING OFFICER. Is there objection?

Mr. DAYTON. Reserving the right to object, I ask the Senator, in terms of the motion, that 2 minutes be evenly divided for my amendment, the first amendment. Is there something different for that?

Mr. GRASSLEY. You would have 1 minute and I would have 1 minute.

Mr. DAYTON. I object to that. I was told by the Senator's staff I would have 2 minutes, 4 minutes equally divided.

Mr. REID. He can take a minute of my time.

Mr. GRASSLEY. You will get 2 minutes, one from your leader. Can we go ahead?

Mr. DAYTON. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Hampshire.

AMENDMENT NO. 1010

(Purpose: To improve outpatient vision services under part B of the medicare program.)

Mr. SUNUNU. Mr. President, I ask unanimous consent that all pending amendments be set aside for purposes of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SUNUNU. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SUNUNU] proposes an amendment numbered 1010.

Mr. SUNUNU. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SUNUNU. Mr. President, I rise to offer an amendment that effectively mirrors a piece of legislation I introduced earlier this year. This amendment will extend benefits under Medicare for vision rehabilitative services; that is, rehabilitative services for those seniors with a vision impairment.

As we debate this important prescription drug legislation, I think one of the cornerstones, one of the principles that is at stake is the objective of giving seniors more options and more choices for their health care and, in doing so, to create an option for a more holistic approach to their health care that perhaps focuses, to a greater extent, on preventive measures and other services that improve independence and improve a senior's quality of life.

This legislation is very much in keeping with that objective and that goal. This will extend coverage for vision rehabilitative services under Medicare, but it does this under the existing physician fee schedule. It does it without creating a new provider network or a new fee schedule. As a result, the cost of this legislation is estimated, over a 5-year period, to be just $8 million. That was an independent estimate that has been done. Of course, I will seek scoring under the Congressional Budget Office for the purpose of this bill.

It is legislation and a set of services that is geared toward improving the level of independence and quality of life for those seniors who are affected by a vision impairment. For the sake of reference, there are over 3.5 million Americans who are affected by vision impairment in the United States. That means vision loss that cannot be treated with eye glasses, that cannot be treated with surgery or other techniques. These seniors need help in learning how to navigate in their own homes, how to deal with the obstacles of daily life, and how to learn to live and work with that vision impairment.

The cost of vision impairment to America and to our seniors can be huge. The CDC estimates over $20 billion in costs annually due to falls and due to injuries that have occurred as a result of vision loss. Hip fractures alone, due to vision loss, are estimated to cost our country over $2 billion per year.

For those reasons, I envision under this legislation cost savings in the long term to be quite significant for the modest cost of improving coverage for these vision rehabilitative services.

This is a piece of legislation I introduced earlier this year for which I was pleased to receive bipartisan support. We have 14 cosponsors—seven Republicans, seven Democrats—and among them a number of the members of the Finance Committee.

I certainly believe this takes the right approach toward strengthening Medicare in a way that gives more focus to the kind of preventive care and the kind of medical maintenance that improves the independence and quality of life for our seniors.

I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Democratic whip is recognized.

Mr. REID. Mr. President, under the consent we obtained, I was to have 5 minutes to speak. I would ask that 1 minute of that time be given to Senator DAYTON, so he can have his 2 minutes. I ask the Chair to notify me when I have used 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 982

Mr. REID. Mr. President, my first elective job was when Medicare came into being. I was the chairman of the board of trustees at a place called Southern Nevada Memorial Hospital. It is now called the University Medical Center. At that time it was the largest medical facility, hospital facility in Nevada.

At that time 40 percent of the seniors who came into that hospital had no insurance, and children, other relatives, and friends had to sign a piece of paper before they came into the hospital that they would be responsible for the bills. Medicare changed all that.

In 1965, when Medicare was created by Congress, it took 11 months after the bill was signed to put a new program in place. That was back in the days of slide rules and adding machines. That was, of course, before we had computers that had any ability to function.

Today our senior citizens need help with soaring drug prices. They deserve the security of knowing they will be able to buy the medicines that can keep them alive and healthy.

So today if we are telling our seniors to wait for that help and that security until the year 2006, I do not think they are going to accept that. It will be too late for millions of seniors, people who have worked hard all their lives to make this the greatest and richest country in the world—the only superpower left in the world. Certainly, if that, in fact, is the case, we should have a prescription drug benefit for senior citizens.

It might be too late for Alice and Frederick Williams of Reno. They worked hard all their lives and raised four children. But Alice contracted hepatitis C from a blood transfusion. Today she is also battling heart disease and a thyroid condition, and Frederick is recovering from prostate cancer. Together, they have to spend $350 every month on prescription drugs. That is $4,200 a year. They don't have it.

Jackie Ridley, it might be too late for her. She is a retired teacher, who spoke at a Committee on Aging hearing in Las Vegas. She and her husband had all kinds of problems: heart disease, high blood pressure, diabetes, and emphysema. Between them, they had 25 prescriptions. Before Jackie's husband passed away, they faced out-of-pocket expenses of more than $1,000 every month. And sometimes, to make it to the next month, they cut back on some of their medicine. We have heard that before.

These Nevada seniors, and millions more like them in every single State, need help now, not 3 years from now. They deserve security now, not in 2006. That is why I rise to support the Lautenberg amendment. It would make this prescription drug benefit effective sooner rather than later.

The bill is confusing enough without asking some senior citizens to apply for one benefit now, and then come

back in 2 years to apply again. Our seniors have enough to worry about without wondering if they will be ruined financially before the benefit takes effect.

The American people know that when Congress really wants to get things done, we can take action quickly. Now they are looking for us to help them, seniors who have worked hard to make this country strong and prosperous.

I urge the support of the Lautenberg amendment.

I yield back whatever time I have.

The PRESIDING OFFICER. The Senator has used 3 minutes.

Mr. REID. I yield back.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 957

Mr. DAYTON. Mr. President, I understand, under the previous order, I have 2 minutes.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. DAYTON. Mr. President, I call up amendment No. 957 and ask the clerk to report it.

The PRESIDING OFFICER. The amendment is pending.

Mr. DAYTON. Thank you, Mr. President. I will proceed.

Mr. President, this amendment is a matter of simple fairness. It says that whatever prescription drug coverage we in Congress vote for for senior citizens and other Medicare beneficiaries in this legislation, then the Members of Congress will get for ourselves, our coverage, under prescription drugs for the life of this particular legislation.

I have heard many of my colleagues say we want to give seniors coverage that is as good as we get ourselves. I heard a lot of senior citizens in Minnesota say they want coverage as good as Members of Congress get for themselves. Well, unfortunately, the bill that is before us this week is not even close to that parity.

If you calculate the total benefits provided, the value of this bill is about half of what Members of Congress get, what we pay as part of the Federal Employees Health Benefits Plan system. But, nevertheless, it is about twice as good as what the seniors of America and those with disabilities and others are going to be able to obtain from what we are likely to pass.

Furthermore, as we have been discussing earlier, this does not even begin until January of 2006. Medicare beneficiaries will get a discount card instead. Well, then, Members of Congress should get a discount card—and nothing more—as well. I think after what I heard the Senator from Iowa say, I would include a few members of the administration since they are the culprits in this delay, but I will save that for another time. With the premiums, deductibles, and the absence of any coverage at all from $4,500 to $5,800, if it is good enough for the seniors of America, then it is good enough for the Members of Congress.

I point out to my colleagues who would like to keep the benefit level they have today——

The PRESIDING OFFICER. The Senator has used 2 minutes.

Mr. DAYTON. Mr. President, I ask unanimous consent for 30 seconds to conclude my remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DAYTON. The amendment Senator DURBIN has offered, which we will have a chance to vote on and discuss later this week, would provide seniors with a comparable package to what we have in Congress. So I urge the support of that amendment, for that reason among many others. But if we are not going to be as generous to senior citizens as we are to ourselves today, then we are going to have to, in my view, bring ourselves down. I would rather bring everyone else up, but what is fair for them is fair for us.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield back my time and wish to vote now.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 957.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.,

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote ''yea''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 3, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—93

Akaka	Collins	Graham (SC)
Alexander	Conrad	Grassley
Allard	Cornyn	Gregg
Allen	Corzine	Hagel
Baucus	Craig	Harkin
Bayh	Crapo	Hatch
Bennett	Daschle	Hutchison
Biden	Dayton	Inhofe
Bond	DeWine	Inouye
Boxer	Dodd	Jeffords
Brownback	Dole	Johnson
Bunning	Domenici	Kennedy
Burns	Dorgan	Kohl
Byrd	Durbin	Kyl
Cantwell	Edwards	Landrieu
Carper	Ensign	Lautenberg
Chafee	Enzi	Leahy
Chambliss	Feingold	Levin
Clinton	Feinstein	Lincoln
Cochran	Fitzgerald	Lott
Coleman	Frist	Lugar
McCain	Reed	Snowe
McConnell	Reid	Specter
Mikulski	Roberts	Stabenow
Miller	Rockefeller	Stevens
Murkowski	Santorum	Sununu
Murray	Sarbanes	Talent
Nelson (FL)	Schumer	Thomas
Nelson (NE)	Sessions	Voinovich
Nickles	Shelby	Warner
Pryor	Smith	Wyden

NAYS—3

Bingaman	Breaux	Hollings

NOT VOTING—4

Campbell	Kerry
Graham (FL)	Lieberman

The amendment (No. 957) was agreed to.

AMENDMENT NO. 1002

The PRESIDING OFFICER. Under the previous order, there are 2 minutes equally divided prior to the vote on the Lincoln amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Arkansas. The Senator has 1 minute.

Mrs. LINCOLN. Mr. President, I plead with my colleagues to take a very serious look at the amendment before us. I know they are hearing differently from downtown perhaps, but I want them to take a look at a recent CBO study that has indicated to us there is negligible impact in giving parity to the fallback plan.

CBO has given us a recent study that indicates there is negligible impact on the private plans in allowing parity with the fallback plans that may be needed in some of our rural areas to ensure that all of our citizens across this great land get the same benefit in a prescription drug package.

Fifteen of our States have no Medicare+Choice or private plans currently. We know it is going to be difficult. Let's make sure a fallback plan is there for seniors, that the continuity is there for them. All we want to do is make sure they will have the same 2-year contract cycle that the private plans will have.

Again, approximately 80 percent of the people in this country are in fee-for-service plans. Let's make sure those who are in our rural States are going to see the parity in these two plans. Just remember, if the private plans are not there or happen to be there, there will be no fallback plan, so you do not have any problem with that.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. LINCOLN. I encourage my colleagues to vote for this amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I oppose the amendment. First off, it is bad enough to have one fallback, which I believe will dramatically discourage private plans from participating in a stand-alone drug benefit. To have two is even worse.

The fact is, the Secretary has the authority under this legislation to balance the risk. With a fallback plan,

there is no risk on the private sector. All the risk for a plan is on the public sector. We give the Secretary the ability to dial back the risk to everything but zero, and the fallback plan is zero. We believe giving the Secretary the discretion will at least encourage the private sector to come in, which they will under this bill, and take some risk, which means they will have some incentive to control costs. If they have no risk, they have no incentive and, thereby, the cost of the program goes up.

Having one fallback plan is a very bad idea. Expanding this very bad idea is a worse idea, and I hope we vote against the amendment.

I ask unanimous consent that the remaining two votes in this series be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote ''no''.

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—51

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Murkowski
Baucus	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Breaux	Graham (SC)	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith
Burns	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Cornyn	Jeffords	Talent
Craig	Kyl	Thomas
Crapo	Lott	Voinovich
DeWine	Lugar	Warner

NAYS—45

Akaka	Clinton	Edwards
Bayh	Collins	Feingold
Biden	Conrad	Feinstein
Bingaman	Corzine	Harkin
Boxer	Daschle	Hollings
Byrd	Dayton	Inouye
Cantwell	Dodd	Johnson
Carper	Dorgan	Kennedy
Chafee	Durbin	Kohl
Landrieu	Miller	Reid
Lautenberg	Murray	Rockefeller
Leahy	Nelson (FL)	Sarbanes
Levin	Nelson (NE)	Schumer
Lincoln	Pryor	Stabenow
Mikulski	Reed	Wyden

NOT VOTING—4

Campbell	Kerry
Graham (FL)	Lieberman

The motion was agreed to.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 982

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes for debate prior to a vote in relation to the Lautenberg amendment, No. 982.

Who yields time?

The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, my amendment is very simple. It says, if you are going to give, then don't take it away. If you are going to give a prescription drug benefit, then, by golly, start it in a timely manner, and start it, let's say, by July of 2004 instead of 2006.

What kind of a benefit is this when 5.5 million of our present living seniors, I am sorry to say, will not be here at that time, 30 months hence. In 11 months, President Lyndon Johnson initiated the idea of Medicare and had it passed and in place—11 months. Why in the world is it going to take 30 months?

I do not believe we ought to be looking at these discount cards, which are available generally in the community today, as the stopover until 30 months have gone by. It is an outrage that this date is chosen, I think not because they want to delay the benefit for seniors but, rather, because it coincides with an election. I do not think we ought to stand for it.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I sympathize with those who feel a need to get this program going sooner than we have it in this legislation. But the fact is, CMS has told us it is physically impossible to get this benefit up and running in the year 2004. Now, knowing that, we have provided a prescription drug discount card, starting on January 1, 2004, in order to get immediate relief from the high cost of prescriptions for our seniors.

The amendment would spend close to $24 billion in fiscal year 2004—the amendment that is before us—and that is money that is not in the budget. We deal with the needs of our seniors in a fair way with this bill, the discount card, and the $600 help for them for each of the next 2 years. So I urge my colleagues to take all this into consideration and oppose the amendment.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 982.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK) and the Senator from Colorado (Mr. CAMPBELL) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote ''no''.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 54, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—41

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Pryor
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carper	Inouye	Rockefeller
Clinton	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kohl	Stabenow
Daschle	Lautenberg	Talent
Dayton	Leahy	Wyden
Dodd	Levin	

NAYS—54

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bennett	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Breaux	Graham (SC)	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Chafee	Hagel	Shelby
Chambliss	Hatch	Smith
Cochran	Hutchison	Snowe
Coleman	Inhofe	Specter
Collins	Jeffords	Stevens
Cornyn	Kyl	Sununu
Craig	Landrieu	Thomas
Crapo	Lott	Voinovich
DeWine	Lugar	Warner

NOT VOTING—5

Brownback	Graham (FL)	Lieberman
Campbell	Kerry	

The amendment (No. 982) was rejected.

Mr. GRASSLEY. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Madam President, the two leaders have met and talked to the managers. We will have, in approximately 30 minutes, two votes. Senator DODD has agreed to take 20 minutes on his two amendments. He can divide it however he deems appropriate. Following that, the Senate will still be in

session. People will offer amendments, if they desire, but it is contemplated these two votes will be the last votes of the evening.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 998

Mr. DODD. Madam President, I call up amendment No. 998.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 998.

Mr. DODD. Madam 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 modify the amount of the direct subsidy to be provided to qualified retiree prescription drug plans)

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.

Mr. DODD. Madam President, this first amendment is intended to address one of the major problems with this bill, and that is the impact the legislation could have on Medicare beneficiaries who are currently receiving prescription drug coverage under the employer-sponsored retiree benefit plans.

I will quickly point out to my colleagues who may be saying we voted on this with the Rockefeller amendment that this is very different. The Rockefeller amendment was designed to provide encouragement to employers to supplement the existing prescription drug benefit. This amendment is designed to provide that encouragement only to employers who would be picking up the total cost of the prescription drug benefit, not just acting as a supplement. So it is very different. It is not the wraparound. This is an optional choice by the retiree or the employer. If they are the primary provider of the drug benefit, they would be covered by this amendment.

For employers intending to act as a supplement to the coverage, we decided that today; unfortunately, it was voted down. With that in mind, clearly in this bill most of us believe what we ought to be trying to do is support, not supplant, the valuable efforts of employers already providing prescription coverage to retirees.

As presently written, I am concerned the bill would lead many retiree benefit plans to scale back or drop entirely the prescription drug coverage they presently provide. However, this amendment would provide an increased subsidy to employers, because we want to encourage them to provide this benefit to retirees. It seems to me it is in our interest to encourage them to stay involved. They would get a subsidy, as long as they continue to offer prescription drug coverage to retirees only as the primary provider, not as a supplement—not as a wrap around the new Medicare benefit.

The scope of this problem is not small at all. In fact, I was surprised to learn how many seniors would be impacted by the unintended change to retiree benefit coverage. About one-third of all Medicare beneficiaries receive prescription drug coverage through an employer-sponsored health care plan. That is by far the largest source of prescription drug coverage for seniors.

These plans have played a very critical role in providing security to seniors, while Congress has been unable over the last number of years to pass a prescription drug benefit plan under Medicare. Retiree benefit plans should continue, in my view, to play that role even after a drug benefit plan is enacted. In many cases, the drug coverage provided by retiree benefit plans is significantly more generous than the plan we are debating here.

Furthermore, many seniors have become familiar and comfortable with the coverage offered by their former employers.

Understandably, they do not want to give it up for a plan about which they are confused and uncertain or may not be as beneficial to them.

We should be doing, in my view, everything in our power to provide these seniors with a choice, with the option of staying with their employer-sponsored plan. Thus, this amendment.

Unfortunately, the option may not be available for many seniors. That is why I put up this chart. I wish to focus the attention of those who may be following this debate to the left side of this chart. The right side I will talk about briefly, but the most significant numbers are on the left side of the chart. I will get to them in a minute.

While the numbers vary slightly, depending upon which study one consults, they come to the same conclusions, roughly the same numbers, and they are very disheartening. Between 1993 and 2001, the percentage of large employers, those who employ more than 500 people, offering coverage to Medicare-eligible retirees dropped from 40 to 23 percent, almost in half over 7 or 8 years. In the last 2 years, 13 percent of all employers offering future retiree coverage have elected not to do so. Those retaining coverage are experiencing annual cost increases on the order of 14 percent. It has been tremendously expensive. As a result, they are substantially raising the cost-sharing burdens for individuals enrolled in these plans.

The chart on the left-hand side illustrates the crisis that employer-sponsored plans are facing today and are going to continue to face in the future. The numbers are based on a survey conducted by the Kaiser Family Foundation and Hewitt Associates in December of 2002.

The graph shows that the actions large employers have taken over the last 2 years to deal with the rapidly increasing retiree health care cost—these numbers may not be clear to everyone, so I will recite them—a large number of employers have increased individual costs in some way. Forty-four percent have increased retiree contributions to premiums, while 36 percent increased cost sharing. In addition, 14 percent have shifted all costs to the individual retiree, and 13 percent have eliminated the plans altogether. Finally, nearly half of employers surveyed increased cost sharing for prescription drugs, as shown by the bar depicting 49 percent.

The numbers on this chart do not bode well, is the point I am trying to make, for those seniors who currently receive health care benefits from their former employers. Given the enormous financial pressures being felt by employers and the encouragement this bill already provides—in the form of a 64 percent subsidy—to keep employers from dropping coverage, it seems to me that if the employees decide to stay with their existing coverage, we believe that subsidy ought to go from 64 percent to 100 percent of the national average premium. That is what we are trying to do with this amendment.

The Congressional Budget Office has estimated that almost 40 percent of seniors who currently have their prescription drug medicines covered by retiree benefit plans would lose their coverage under the plan before us. So even with the 64 percent subsidy, 37 percent of retirees would be dropped from these plans. We are raising through this amendment that subsidy to 100 percent which we think will do a lot to keep these employer-based plans in place so that retirees would have that option of sticking with those retiree plans.

I supported the Rockefeller amendment. I mentioned that earlier. This is different. This is very different. If you are just supplementing the benefit plan, then you would not be covered by the Dodd amendment. That was the Rockefeller amendment, and the Senate voted it down. My amendment says only if you are the primary provider of the prescription drug benefit would you get the kind of subsidy we are talking about, from 64 to 100 percent. That would mean approximately an additional $400 a year per retiree paid to the employer. This would encourage employers to retain the full prescription drug coverage they presently provide rather than cutting back coverage and simply supplementing a new Medicare benefit.

The underlying bill has a provision that would provide a subsidy to employers for every Medicare-eligible retiree who elects to remain in an employer-sponsored plan as an alternative

to the Medicare prescription drug plan. That subsidy would be approximately, as I mentioned, 64 percent of the national average premium for prescription drug coverage.

This amendment would very simply increase that subsidy to the full national average premium. This would mean an additional $35 a month per beneficiary or roughly $400 a year paid directly to employer-sponsored plans as long as they continue to offer an alternative to Medicare prescription drug coverage, bringing the total subsidies to almost $100 per month when we combine the 64 percent that is in the bill and what we are adding with this amendment.

To receive this subsidy, employers would have to offer a prescription drug plan that is competitive with the Medicare benefit because the subsidy would only be paid for beneficiaries who remain in the employer-sponsored plan and do not enroll in Medicare Part C or D.

We simply cannot allow retiree benefit plans to disappear. That would be a great mistake, in my view. This amendment is designed to keep them if we can. It is a modest amendment considering the benefits that could accrue to the retirees, giving them the option of sticking with an employer-based plan.

If CBO is right, under the plan before us, almost 40 percent of these retirees will lose that prescription drug coverage under their employer-based plans. I do not think we want to have that happen. I urge the adoption of this amendment, and I hope my colleagues will be supportive of it.

I see the chairman of the committee who I know wants to respond to my amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I wish to propound a unanimous consent request.

I ask unanimous consent that Senator DODD have up to 20 minutes and Senator GRASSLEY up to 10 minutes for debate on amendment Nos. 970 and 998 concurrently. I further ask unanimous consent that following that debate, the Senate proceed to a vote in relation to the amendment No. 970, to be followed by a vote in relation to amendment No. 998, with no second-degree amendments in order to the amendments prior to the vote. Finally, I ask unanimous consent that at 10 a.m. tomorrow the Senate proceed to a vote in relation to the Grassley, or his designee, amendment, regarding the benchmark, with no amendments in order to the amendment prior to the vote; provided further, that this vote be subject to the approval of both leaders.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding the Senator from Connecticut has graciously indicated the time he has used would be counted toward this time.

Mr. DODD. That is correct.

Mr. REID. That being the case, the vote will occur around 6:15 p.m., for the information of Members.

The PRESIDING OFFICER. Approximately 6:20 p.m. Is there objection? Without objection, it is so ordered.

Mr. DODD. Mr. President, if I can finish, I can give the chairman a chance to respond.

I ask unanimous consent that a letter signed by 33 of the labor unions in this country 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:

JUNE 23, 2003.

DEAR SENATOR: If the Medicare drug bill before the Senate, S. 1, becomes law, 37 percent of retirees who now have employer-sponsored health benefits will lose that coverage. That's 4.4 million retirees that will be made worse off if S. 1, as drafted, is enacted into law. Such an act will represent an enormous and irreversible blow to the employer-based system that is the backbone of our nation's health care system.

As you know, retiree health coverage is already in crisis. Drug costs constitute 40 to 60 percent of employers' retiree health care costs, and steep price increases are prompting employers to eliminate drug benefits, cap their contributions or drop retiree coverage altogether. In fact, just 34 percent of all large firms (200 or more employees) offered retiree benefits in 2002, down from 68 percent of all large firms in 1988.

Both public and private employers need immediate relief for their retiree prescription drug costs, but S. 1, as now drafted, will exacerbate an already dire situation for retiree coverage by discriminating against retirees with employer-sponsored coverage.

By using a trick definition of out of pocket costs—''true out of pocket''—S. 1 will effectively deny retirees catastrophic coverage by not counting any drug costs covered through an employer plan. This ensures seniors with retiree benefits will get less Medicare coverage than any other beneficiary. As a result, employers that choose to ''wrap around'' the Medicare benefit and provide assistance for costs not covered by Medicare will find the gap in coverage does not end for these retirees.

Two amendments will be offered to address this critical flaw. The first, offered by Senator Rockefeller, would eliminate the ''true out of pocket'' definition so that retirees receive the same benefit as all other beneficiaries. The second amendment, to be offered by Senator Dodd, would increase the subsidy to employers that retain retiree benefits.

Although some may claim that the ''true out of pocket'' trick will save money for Medicare, any provision that encourages employers to drop their retiree benefits will only end up costing the federal government more—and hurt millions of seniors in the process. Seniors who have retiree benefits have worked a lifetime and made wage concessions over the years with the expectation that they would have retiree benefits. To change the rules of the game at this point and give them less than other Medicare beneficiaries is patently unfair.

We urge you to support the amendments aimed at encouraging both public and private employers to continue providing retiree health benefits. Congress must enact a drug benefit that supports, not threatens our fragile employer-based system of health coverage.

We have many other concerns with the Senate bill, including the enormous gap in coverage and the reliance on uncertain and historically unstable private insurance plans. And we have very grave concerns that the conference report you will be asked to consider will incorporate elements of the House bill that are entirely unacceptable to the millions of American we represent. In particular, the House bill would introduce full competition into Medicare beginning in 2010—a blatant attempt to undermine the traditional Medicare program and start it on a ''death spiral'' of caring for the sickest beneficiaries and unsustainable costs.

We strongly believe that adding a prescription drug benefit to Medicare is the most urgently needed reform and one that has been promised to our nation's elderly and disabled. However, we cannot accept legislation that does so at the expense of retirees who now have employer-sponsored coverage and the very future of Medicare.

Thank you for your consideration.

Sincerely,

John J. Sweeney, President, AFL–CIO; Ron Gettelfinger, President, United Auto Workers; John J. Flynn, President, International Union of Bricklayers and Allied Craftworkers; Morton Bahr, President, Communications Workers of America; Harold A Schaitberger, President, International Association of Fire Fighters; Douglas H. Dority, International President, United Food and Commercial Workers.

James A. Grogan, Jr., President, Asbestos Workers, International Association of Heart and Frost Insulators; Frank Hurt, President, Bakery, Confectionary, Tobacco Workers and Grain Millers International Union; Edward C. Sullivan, President, Building and Construction Trades; Edwin D. Hill, President, International Brotherhood of Electrical Workers; Patricia Friend, International President, Association of Flight Attendants; Bobby L. Harnage Sr., President, American Federation of Government Employees.

David Holway, President, National Association of Government Union Employees/International Brotherhood of Police Officers; S. Richard Elliott, President, International Union of Journeymen, Horseshoers, United Services and Allied Trades; Terence M. O'Sullivan, President, Laborers' International Union; R. Thomas Buffenbarger, President, International Association of Machinists and Aerospace Workers; Thomas F. Lee, President, American Federation of Musicians of the United States and Canada.

Gregory Junemann, President, International Federation of Professional and Technical Engineers; Andrew L. Stern, President, Service Employees International Union; Gerald W. McEntee, President, American Federation of State, County and Municipal Employees; Sandra Feldman, President, American Federation of Teachers; Sonny Hall, President, Transport Workers Union of America; Donald Wightman, President, Utility Workers Union of America; George Tedeschi, President, Graphic Communications International Union; Joseph J. Hunt, General President, Iron Workers, International Association of Bridge, Structural, Ornamental and Reinforcing.

John M. Bowers, President, International Longshoremen's Association; Cecil E.

Roberts, President, United Mine Workers of America; Boyd D. Young, President, PACE International Union; Joe L. Greene, President, American Federation of School Administrators; Michael J. Sullivan, General President, Sheet Metal Workers International Union; Leo W. Gerard, President, United Steelworkers of America; James P. Hoffa, General President, International Brotherhood of Teamsters; Robert A. Scardelletti, President, Transportation Communications International Union.

Mr. DODD. Mr. President, I will read a pertinent passage because this is really the heart of this issue. I mentioned earlier, one-third of all retirees get coverage under the private employer-based plans. If CBO is right, almost 40 percent of retirees will lose their coverage under this bill, and employers would start dropping them because they do not get the subsidies, then I think we have to understand what the implications mean for a lot of people. I do not believe my colleagues intend this to be the case, but this is what is going to happen if we are not careful.

The letter reads in part:

If the Medicare drug bill before the Senate, S. 1, becomes law, 37 percent of retirees who now have employer-sponsored health benefits will lose that coverage.

That is according to CBO.

That's 4.4 million retirees that will be made worse off if S. 1, as drafted, is enacted into law. Such an act will represent an enormous and irreversible blow to the employer-based system that is the backbone of our nation's health care system.

The letter goes on:

. . . any provision that encourages employers to drop their retiree benefits will only end up costing the federal government more—and hurt millions of seniors in the process. . . .

We urge you to support the [Dodd] amendment aimed at encouraging both public and private employers to continue providing retiree health benefits. Congress must enact a drug benefit that supports, not threatens, our fragile employer-based system of health coverage.

That is what my amendment is designed to do: to provide that subsidy if the retiree takes the option of continuing in the employer-based plan as the primary provider for health care coverage. If that is the case, then I think we ought to provide that encouragement and inducement. They make a huge difference in people's lives. If CBO is right and we do not adopt this amendment, and 4.5 million people have a worse plan as a result of our action, we have taken a step back rather than a step forward for that many seniors in our country. I don't know of anyone in this Chamber who would like to be a party to that.

For those reasons, I hope my colleagues could support the man from Connecticut on his amendment.

Mr. GRASSLEY. I am glad to speak about the man from Connecticut and his amendment but not to support it.

First of all, we need to remember, with or without this subject before the Senate, these plans could be dropped without any hesitation. We can have the prescription drug plan before the Senate, and there could be some reason some companies would drop that. But right now, remember, our passage of this legislation is very much to fill a gap. We are worried about people who do not have any coverage whatever.

As I have said before, we are all very concerned about the future of retirees' benefits and making sure retirees are treated fairly. Under the beneficial before the Senate, retirees get the same protection from high prescription drugs and the costs as any other beneficiary. That is a generous subsidy, far greater than they currently get, which would be zero.

The fact is, typical retiree plans provide much more generous coverage, and the beneficiaries spend much less out of pocket for their prescriptions.

There has been a great deal of interest in the assumption by the Congressional Budget Office that corporations are going to drop their coverage of prescription drugs for about 37 percent of the retirees in retiree health plans over the next 10 years. What we cannot forget is employers, as I indicated, are already dropping or, maybe more, scaling back retiree health benefits not because of our legislation but because retiree health benefits are rising because of very high health care costs. They have already been dropping plans or cutting them back for at least a decade, a point made by my colleague, Senator DODD.

We have worked hard to address this problem in the underlying legislation. One of the most significant future liabilities faced by retiree plans is the cost of prescription drugs. We have given employers serious and generous subsidies. The Dodd amendment proposes to boost subsidies for employers beyond the 64 percent we have given them already. This change would send millions more in taxpayers dollars to these corporations during the next decade. We had to put priorities first.

We have $400 billion. We have looked at States and the problems of dual eligibles. We looked at corporate retiree plans and what might happen and what can we do to keep those that are going out of business or dumping theirs on a government plan. We have worked with a lot of different problems. We have had to do the best we can to squeeze within that $400 billion. We have tried to help the States to some extent on dual eligibles. We are trying to help corporations with incentives not to dump their retirees on this plan. I can go down a long list we have tried to squeeze in and prioritize.

The overriding goal was to help those who had no drug plans whatever. That was very much a high priority. We have maybe 30 percent or a little more on private plans. We have people on Medicare with Medigap policies. We have people who are duly eligible subject to Medicaid. But we have 30 percent or more with zilch. We go beyond just helping those who do not have any plan. But that has been our priority. We tried to do it in a way that people who have better—and maybe most corporate retiree plans do have better incentives than what we can provide—and they can continue to have better. But we cannot control entirely what corporations are going to do. Particularly, you cannot do that on the amount of money we have here.

As I indicated, this is a very expensive amendment that we cannot squeeze into the $400 billion.

I urge my colleagues to defeat the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I will take 1 minute on this amendment and move to my second amendment.

This is an optional choice. We are not requiring employers to retain an employer-based plan. We are saying we know already, based on CBO's analysis, that close to 40 percent of people under the employer-based plans will be dropped. We know that.

Our primary responsibility in this bill is to provide a good prescription drug benefit for people. We do not want to be in a situation of actually causing people to have a worse plan than they have.

My point is not to increase spending but to say, if you are going to provide prescription drug coverage as an employer—and I want you to continue doing this; and we are being told 37 percent of the people will be dropped—we will increase the subsidy. To encourage employers to continue doing it seems to me to be in our interest. That is why I offer this amendment and why it is so strongly supported by labor unions who believe this will be a major blow to almost 4.5 million retirees in the country. I urge adoption of this amendment.

AMENDMENT NO. 970

The second amendment I call up is amendment No. 970, and I ask for its immediate consideration.

The PRESIDING OFFICER. That amendment is pending.

Mr. DODD. Let me briefly explain this amendment. I commend the committee.

This bill does an awful lot for people who are really hurting. I want the chairman to know I strongly support his efforts. Those who are really hurting get real help with this bill. I commend the committee for focusing on that. I commend him for it.

What this amendment does is a little different. We have all been talking about donut holes. People watching this debate may wonder what we are talking about, but the donut hole is in the plan when you reach a certain level of your costs of prescription drugs. Even though you keep paying the premiums of $35 a month, if your costs run somewhere around $4,500 to $5,800, during that period you are in the eye of the hurricane, and you do not get any help during that period.

That is not true if you are below 160 percent of poverty. If you are below 160 percent of poverty, we will provide help to you even while you are in the donut hole.

My amendment effects those in the donut hole who are between 160 and 250 percent of poverty. That is an individual who makes $22,000 a year or a couple earning $30,000 a year. These are people who are really hurting out there as well. They are not as desperately poor as those at 160 percent of poverty, but they are not much better off. But just in the donut hole, could we say that those people might get a 50/50 deal in the donut hole, between 160 and 250 percent of poverty? In that one set of circumstances where the costs are running from $4,500 to $5,800, you get a 50/50 deal if you are making $22,500, or a couple, $30,000, that is what the amendment does.

I know the chairman is going to say these are great ideas and there is a cost associated, and there is. But we ought to provide some help to people in those earnings groups—$22,000 if you are single or $30,000 as a couple. These are probably cancer patients or patients with serious medical costs. If you are paying somewhere around $4,500 a year, up to $5,800 a year, you have a serious health care problem. If you are making $22,000 or $30,000, as an individual or a married couple, then to provide 50 percent of the cost of those prescription drugs while you are in that donut hole I do not think is asking too much of us.

We should add just a little bit to accommodate these not even middle-income people. It would be an unfair description to say these are middle-income people. There is nothing magic about 250 percent. I just tried to reach out a bit to that constituency here that will continue paying the $35 a month. They have to do that. They do not get anything. If we could just reach a little further to that constituency, beyond the 160 percent, between $4,500 and $5,800 in total spending. We try to provide an additional bit of help for you, 50 percent of that cost. We can't pick up all of it, that would probably be too expensive. I don't know what the CBO numbers would be, but we will put you in the 50/50 bracket up to 250 percent of poverty just while you are in that situation. That is what the amendment does. It is no more complicated than that.

Again, I compliment the chairman. They have done a very good job taking care of the very desperately poor in the country. But for people who are not quite desperately poor—although I suggest some may tell you that living on $22,000 a year as a single person or a couple over the age of 65 with $30,000 worth of income, they are not out partying. These people probably make choices between food and rent and medicines, particularly if you are paying $4,500 a year or up to $5,800 a year for prescription drugs. That comes off the $22,000 or your $30,000. You do not have to do the math to know where you are living, what circumstances you are under.

So this is designed to provide some additional relief for people in that category, moving it up just a little bit, up to that 250 percent from 160 percent while you are in the donut hole, only there, to get a 50/50 break. You still pay 50 percent of the cost. You don't get 100 percent relief, but 50 percent of the cost, and that is what the second amendment is designed to do.

I apologize for racing, but I am trying to get this in in the 5 minutes. This is obviously complicated stuff. I am trying to accommodate my colleagues who I know have other engagements this evening to explain what the amendments do. The time does not justify the context, as to how important this would be to a lot of people in this country. I don't know the numbers of the people in this income category, but I have to believe before we get done with this, to provide some additional help for people in that category ought not to be too much of a stretch when you consider that $22,450 for an individual and $30,000 for a couple is going to put a lot of burden, a lot of pressure on you if you are already paying somewhere between $4,500 and $5,800 in prescription drug costs. This amendment would help those people.

I hope the man from Connecticut might impress the chairman on this one with his support. Hope springs eternal. I keep knocking on the door, seeing if I can't get some help.

Mr. KENNEDY. I commend Senator DODD for offering this important amendment today. This amendment will address one of the gaping holes in this plan—its failure to treat retirees and retiree health plans fairly. Today, we have the opportunity—and the obligation—to correct that unfairness.

Ten million senior citizens depend on retiree health plans to fill the gaps in Medicare. Especially given the limitations of the drug benefit we are debating, supplemental coverage from retiree health plans is crucial. But retiree health plans are being abandoned or cut back all over the country—and prescription drug costs are a key part of the problem. For retirees who are over 65, prescription drugs make up about half of all plan costs—and as much as 80 percent of recent cost increases.

But the prescription drug plan before us treats those plans unfairly, by taking the unprecedented step of making senior citizens with retiree health plans second class citizens under Medicare. The Congressional Budget Office has concluded that even with the new assistance provided under this plan, one-third of all retirees—4 million senior citizens—could lose their supplemental drug coverage. That should be unacceptable to every Senator.

The issue is not one of providing a bail-out or a windfall to retiree health plans. It is one of simple fairness. Currently, whenever Medicare covers a benefit or service, Medicare is the primary payer for that service. If a retiree health plan covers the service, it pays only for what Medicare does not cover.

The reason for that is straightforward. Employers pay taxes to support the Medicare Program. So do retirees. So do active workers who accept lower wages during their working years in order to have supplemental retirement health care in their retirement years.

But under this legislation, these workers and these employers do not get the full benefit of their contribution to the drug benefit. Because of the ''true out-of-pocket'' concept included in the bill, Medicare does not pay for catastrophic expenses of these workers, even though the cost of covering these expenses accounts for more than one-third the cost of the current bill.

And the higher the costs the retiree faces, the more the discrepancy between what Medicare pays for the retiree with employer-sponsored insurance and what Medicare pays for all other senior citizens grows. If the individual's drug costs are $6,000, Medicare pays $2,113 for the retiree with insurance but $2,281 for all other senior citizens. If the individual's drug costs are $8,000, Medicare still pays $2,113 for the retiree with employer-sponsored insurance, but $4,081 for all other senior citizens. And if the individual's drug costs are $10,000, Medicare still pays just $2,113 for the retiree, but pays $5,881 for all other senior citizens.

This is double taxation at its worst. These retired workers and companies are taxed twice. They pay once to support the Mecicare program. Then they are forced to pay again by being denied the Medicare benefits their contributions have earned. During the debate on the tax bill we heard a lot about the injustice of double taxation of dividends from the other side of the aisle. Apparently, for them, double taxation of the unearned income of millionaires and billionaires is wrong, but double taxation of moderate income retired senior citizens is just fine.

The fact is that it is not fine. The American people understand that it is wrong. American companies struggling to provide for their retired workers in this sour economy understand that is wrong. The Senate should understand that it is wrong, too, and right this injustice.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. DODD. I had 5.

Mr. GRASSLEY. First, let me explain to the distinguished Presiding Officer why we refer to ''the man from Connecticut.'' When I was going to yield him some time, I didn't think of the word ''Senator.'' I said I will give 1 minute to the man from Connecticut, and I apologize.

First of all, I wish I had an exact number for this amendment. It has

some costs, but I do not have an official score from the Congressional Budget Office so I cannot say that this costs X number of billions of dollars at this point. But it does have some cost.

I am going to try to convince the Senator from Connecticut that we have done a lot in this legislation for people who are low income. Maybe it doesn't go as high up the economic ladder as he would like to have us go. But my point is we have done an awful lot.

We worked very hard to minimize the gap in coverage with resources provided in the budget resolution which would be roughly $400 billion. The bill also provides generous coverage to lower income beneficiaries, those who have income below about $15,000, and couples with incomes below about $20,000. They, in fact, have no gap in coverage. That is 44 percent of Medicare beneficiaries who are completely unaffected by the benefit limit.

In the writing of this bill, a conscious decision was made to devote excess dollars to filling in the gap in coverage for all seniors. Under the underlying bill, the average senior at this income level will still save more than $1,600 annually off the drug spending after paying an affordable monthly premium of $35 per month. This is a savings of about 53 percent off annual drug costs for the average senior who would enroll in the drug benefit.

Let me remind everybody, this drug benefit is optional. People do not have to join it. If anybody is saying I don't want to pay $35 per month to get this sort of coverage, then that person does not have to pay $35 per month for coverage because this is a voluntary program. So the people who enroll in this program would save that $1,600, even beyond the $35-per-month premium.

While I appreciate what the Senator from Connecticut is trying to do, it cannot possibly fit within the $400 billion that we have. We had to draw a limit someplace. We drew the limit at 160 percent of poverty. So I cannot support his amendment. I am sorry to say that to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank the chairman. He has been very gracious. This is my last amendment. I have tried vainly over here in the last couple of days with some amendments—I don't know what the implications are; I appreciate his candor, in terms of not knowing the cost of this amendment—that would fill in the hole, to go from 160 to 250, for people in that category. The reason I offered it is it occurred to me if you are paying that much in prescription drugs, somewhere around $5,000 a year for prescription drugs, and you are making $30,000 as a couple or $22,000 as an individual, you probably have a pretty serious illness if you are paying about $5,000 in prescription drug costs.

It occurs to me that during that hole, we might try to do a little more. We have done that, as the chairman says, very graciously for the desperately poor in this country.

For those reasons, I urge the adoption of the amendment. I will let the chairman proceed. The first amendment, I guess, we will do in that order.

Mr. GRASSLEY. I yield any time I have and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 970.

Mr. DODD. There are two amendments. Amendment No. 998?

The PRESIDING OFFICER. We will vote on one at a time. Amendment No. 970 is first.

Mr. GRASSLEY. Mr. President, while I am at it, I would like to ask for the yeas and nays on both the Dodd amendments.

The PRESIDING OFFICER. Is there objection to that request?

Without objection, it is so ordered. The yeas and nays are in order.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll on amendment No. 970.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from South Carolina (Mr. GRAHAM) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 54, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—41

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Byrd	Harkin	Pryor
Cantwell	Hollings	Reed
Carper	Inouye	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden
Dodd	Levin	

NAYS—54

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Miller
Baucus	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Fitzgerald	Roberts
Breaux	Frist	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burns	Hagel	Smith
Chafee	Hatch	Snowe
Chambliss	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Jeffords	Sununu
Collins	Kyl	Talent
Cornyn	Landrieu	Thomas
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NOT VOTING—5

Campbell	Graham (SC)	Lieberman
Graham (FL)	Kerry	

The amendment (No. 970) was rejected.

Mr. GRASSLEY. I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 998

The PRESIDING OFFICER. The question is on agreeing to amendment No. 998. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCDONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea''.

The PRESIDING OFFICER (Mr. TALENT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 55, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—41

Akaka	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Edwards	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Byrd	Harkin	Pryor
Cantwell	Hollings	Reed
Carper	Inouye	Reid
Clinton	Johnson	Rockefeller
Conrad	Kennedy	Sarbanes
Corzine	Kohl	Schumer
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden
Dodd	Levin	

NAYS—55

Alexander	Burns	DeWine
Allard	Chafee	Dole
Allen	Chambliss	Domenici
Baucus	Cochran	Ensign
Bennett	Coleman	Enzi
Bond	Collins	Fitzgerald
Breaux	Cornyn	Frist
Brownback	Craig	Graham (SC)
Bunning	Crapo	Grassley

Gregg	McCain	Snowe
Hagel	McConnell	Specter
Hatch	Miller	Stevens
Hutchison	Murkowski	Sununu
Inhofe	Nickles	Talent
Jeffords	Roberts	Thomas
Kyl	Santorum	Voinovich
Landrieu	Sessions	Warner
Lott	Shelby	
Lugar	Smith	

NOT VOTING—4

Campbell	Kerry
Graham (FL)	Lieberman

The amendment (No. 998) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I ask unanimous consent that the Democratic leader be recognized to speak next, and following his statement the Senator from Georgia be recognized to speak, both as if in morning business. The Senator from Georgia will speak for up to 7½ minutes; I don't know how long Senator DASCHLE is going to speak, but I don't think it will be long.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. While we are waiting for Senator DASCHLE, if we could reverse the order and have the Senator from Georgia proceed.

The PRESIDING OFFICER. The Senator from Georgia.

(The remarks of Mr. MILLER are printed in Today's RECORD under ''Morning Business.'')

(The remarks of Mr. DASCHLE are printed in Today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent the pending amendment be set aside and Senator CONRAD be recognized to offer a series of amendments, and following his offering amendments the Senator from New York, Senator CLINTON, be recognized to offer her amendments.

I state for the information of Senators, the manager or I will also have some other amendments to offer on behalf of other Senators. Following that, there should be no more business of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

AMENDMENTS NOS. 1019, 1020, 1021

Mr. CONRAD. Mr. President, I say to my colleague who is seeking to also introduce amendments, I will be very brief.

I rise to offer three amendments to the Prescription Drug and Medicare Improvement Act. I send the three to the desk.

The PRESIDING OFFICER. The clerk will report the amendments by number.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mrs. MURRAY, Mr. SMITH, Mrs. LINCOLN, and Mr. JEFFORDS, proposes an amendment numbered 1019.

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 1020.

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 1021.

Mr. CONRAD. I ask unanimous consent the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1019

(Purpose: To provide for coverage of self-injected biologicals under part B of the medicare program until Medicare Prescription Drug plans are available)

At the end of subtitle B of title IV, insert the following:

SEC. ___. MEDICARE COVERAGE OF SELF-INJECTED BIOLOGICALS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (U), by striking ''and'' at the end;

(B) in subparagraph (V), by inserting ''and'' at the end; and

(C) by adding at the end the following new subparagraph:

''(W)(i) a self-injected biological (which is approved by the Food and Drug Administration) that is prescribed as a complete replacement for a drug or biological (including the same biological for which payment is made under this title when it is furnished incident to a physicians' service) that would otherwise be described in subparagraph (A) or (B) and that is furnished during 2004 or 2005; and

''(ii) a self-injected drug that is used to treat multiple sclerosis;''.

(2) CONFORMING AMENDMENT.—Subparagraphs (A) and (B) of section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) are each amended by inserting '', except for any drug or biological described in subparagraph (W),'' after ''which''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs and biologicals furnished on or after January 1, 2004 and before January 1, 2006.

At the end of title VI, add the following:

SEC. ___. 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)''; and

(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''.

AMENDMENT NO. 1020

(Purpose: To permanently and fully equalize the standardized payment rate beginning in fiscal year 2004)

Strike section 401 and insert the following:

SEC. 401. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d)(3)(A)(iv)(42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to subclause (II), for discharges''; and

(2) by adding at the end the following new subclause:

''(II) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute a standardized amount for hospitals located in any area within the United States and within each region equal to the standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.''.

(b) CONFORMING AMENDMENTS.—

(1) COMPUTING DRG-SPECIFIC RATES.—Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking ''IN DIFFERENT AREAS'';

(B) in the matter preceding clause (i), by striking '', each of'';

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking ''and'' after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new clause:

''(iii) for a fiscal year beginning after fiscal year 2003, for hospitals located in all areas, to the product of—

''(I) the applicable standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

''(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.''.

(2) TECHNICAL CONFORMING SUNSET.—Section 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional adjusted DRG prospective payment rate''; and

(B) in subparagraph (D), in the matter preceding clause (i), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional DRG prospective payment rate for each region,''.

At the end of title VI, add the following:

SEC. ___. 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)''; and

(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''.

AMENDMENT NO. 1021

(Purpose: To address medicare payment inequities)

At the end of subtitle A of title IV, add the following:

SEC. ___. GEOGRAPHIC RECLASSIFICATION OF CERTAIN HOSPITALS FOR PURPOSES OF REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal year 2004 and each subsequent fiscal year, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), hospitals located in the Bismarck, North Dakota Metropolitan Statistical Area are deemed to be located in the Fargo-Moorhead North Dakota-Minnesota Metropolitan Statistical Area.

(b) TREATMENT AS DECISION OF MEDICARE GEOGRAPHIC CLASSIFICATION REVIEW BOARD.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of section 1886(d) of the Social Security Act (42 U.S.C 1395ww(d)), any reclassification under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under paragraph (10) of that section.

(2) NONAPPLICATION OF 3-YEAR APPLICATION PROVISION.—Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to a reclassification being effective for 3 fiscal years, shall not apply with respect to reclassifications made under this section.

(c) PROCESS FOR APPLICATIONS TO ENSURE THAT PROVISIONS APPLY BEGINNING OCTOBER 1, 2003.—The Secretary shall establish a process for the Medicare Geographic Classification Review Board to accept, and make determinations with respect to, applications that are filed by applicable hospitals within 90 days of the date of enactment of this section to reclassify based on the provisions of this section in order to ensure that such provisions shall apply to payments under such section 1886(d) for discharges occurring on or after October 1, 2003.

(d) ADJUSTMENTS TO ENSURE BUDGET NEUTRALITY.—If 1 or more applicable hospital's applications are approved pursuant to the process under subsection (c), the Secretary shall make a proportional adjustment in the standardized amounts determined under paragraph (3) of such section 1886(d) for payments for discharges occurring in fiscal year 2004 to ensure that approval of such applications does not result in aggregate payments under such section 1886(d) that are greater or less than those that would otherwise be made if this section had not been enacted.

AMENDMENT NO. 1019

Mr. CONRAD. Mr. President, the first amendment would provide immediate prescription assistance to certain chronically ill beneficiaries. We have a very curious circumstance. Under current law, Medicare Part B covers injectable drugs if they are routinely administered by a physician in the office. However, if a similar drug is available that could be self-injected at home, it is not covered.

That makes no sense at all. This policy causes a significant burden for seniors with certain illnesses such as multiple sclerosis, rheumatoid arthritis, and other diseases. This amendment would address this problem by providing immediate coverage of drugs that could be administered at home when they are used to replace drugs that are covered when given in a physician's office. This transitional benefit would expire when a comprehensive Medicare drug benefit is implemented in 2006.

I am proud to say I am working on this effort with Senator MURRAY of Washington, who has introduced similar legislation in bill form; Senator SMITH, who is also on the Finance Committee, who has been a leading advocate of this approach; Senator LINCOLN; and Senator JEFFORDS. It is supported by more than 40 patient organizations.

This is a common-sense policy which provides real and immediate help to thousands of America's seniors. It is entirely paid for by codifying that Medicare is the secondary payer when beneficiaries have other private insurers that provide them with coverage.

I hope my colleagues will look with favor on this amendment.

AMENDMENT NO. 1020

The second amendment would address payment inequity that has hurt America's rural hospitals. As many know, rural health care providers are often forced to operate with significantly less resources than larger urban facilities. In my State of North Dakota, rural hospitals often receive only one-half the reimbursement their urban counterparts get for treating the exact same illness.

For example, a rural facility in North Dakota receives approximately $4,200 for treating pneumonia, while a hospital in New York receives more than $8,500 to treat that same illness. The funding disparity is simply unfair and has placed many rural providers on shaky ground.

To address this situation, MedPAC has recommended various policies, including equalizing the standard payment amount, which has been 1.6 percent higher for urban facilities. There is no policy basis for this difference.

Earlier this year the omnibus appropriations bill took steps to equalize the standardized amount but only until the end of fiscal year 2003. This amendment finishes the job by making this change permanent.

Again, this amendment is fully paid for by the legislation codifying that Medicare is the secondary payer when beneficiaries have alternative coverage.

AMENDMENT NO. 1021

Finally, I am offering a third amendment that would address a disparity related to whether certain hospitals are eligible to be reclassified for the purposes of the in-patient hospital wage index.

Under current law, hospitals have to meet certain mileage or proximity requirements in order to reclassify to the wage index value applied to another area of the State. In rural States such as North Dakota, this restriction has produced unfair, certainly unintended, consequences.

In my State, there are hospitals on the western side of North Dakota which are hundreds of miles from the eastern side of the State but compete for the same labor pool—compete for the same doctors, the same nurses—and have the same costs. However, because of this mileage restriction, they are not able to get paid the same. In fact, there is an 18-percent difference in the wage index between hospitals in Bismarck, ND, and hospitals in Fargo, ND—an 18-percent difference. It makes no earthly sense.

North Dakota hospitals have tried to address this situation by appealing to CMS on various occasions, to no avail. And the reason it has been to no avail is because the law says you have to be contiguous. Well, there is a 200-mile difference between Bismarck and Fargo, but they are in contiguous markets. They compete for the same doctors, the same nurses, and they need to be treated in the same way.

This amendment would address this situation by allowing certain hospitals in my State to reclassify to another area of the State for purposes of the wage index. This change would be budget neutral.

I urge my colleagues to support these three important amendments.

Let me just say, if I can, to my colleagues, I am also working on a fourth amendment, the dialysis annual update formula. I am working on that with Senator SANTORUM and the chairman and ranking member. We are hopeful of being able to work out that amendment at a later point.

Mr. President, these are the amendments I am seeking to have considered.

AMENDMENT NO. 1019

Mr. SMITH. Mr. President, I rise today with my colleague from North Dakota in support of critical drug coverage for beneficiaries who contend with the debilitating effects of Multiple Sclerosis. This amendment would provide transitional coverage for the four FDA-approved therapies in the 2-year interim until 2006, when the prescription drug plan will take effect.

Approximately 400,000 Americans have MS. In my home State of Oregon, it is estimated that there are 5,800 people living with MS. Currently, Medicare covers only one of the four FDA-approved MS therapies and only when administered by a physician.

This amendment would cover all four MS therapies, including when they are administered by the patients themselves, providing better coverage and better care for Americans with Multiple Sclerosis. While these therapies do not cure MS, they can slow its course, and have provided great benefit to MS patients.

It is critical that MS patients have access to all approved drugs because some MS patients do not respond well to, or cannot tolerate, the one MS therapy that is currently covered. Currently, many Medicare beneficiaries with MS are forced to take the less effective therapy, to pay the costs out of pocket, or forgo treatment.

Equally, this amendment is important to rural Medicare beneficiaries with MS. By administering drugs themselves, rural beneficiaries can avoid the costs and hassles of traveling long distances to health care facilities to receive their MS therapy.

In the spirit of providing all Medicare beneficiaries with increased choice, MS patients need and deserve the full range of treatment choices currently available and self-administration helps ensure access to needed medications. I urge my colleagues on both sides of the aisle to join me in support of this amendment and to provide adequate and comprehensive drug coverage for MS patients.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, with the graciousness of the Senator from New York, I ask unanimous consent that the Senator from Washington be recognized for up to 3 minutes to speak on one of the amendments offered by the Senator from North Dakota.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I thank my colleague from New York.

AMENDMENT NO. 1019

Mr. President, I have a statement I will give for the RECORD, but I also want to thank Senator CONRAD for his work on the self-injected biologics and the offering of this amendment tonight. I am delighted to be a cosponsor on this amendment. It is something I have worked on for over 2 years. And as Senator CONRAD said, we have patients today with MS, with rheumatoid arthritis, who are forced to go to a doctor, a medical clinic in order to get the drugs they need.

This will save us money in the long run because people will be able to stay home. But, most importantly, it will allow people quality of life in the care they need. I thank Senator CONRAD and Senator SMITH and the other cosponsors of this amendment.

Mr. President, I am pleased to join with Senator CONRAD and Senator SMITH in offering this amendment to give those on Medicare access to a new, exciting group of drugs known as self-injected biologics.

Senator CONRAD offered a similar amendment during the Senate Finance Committee markup 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. This is 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 is 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 2 Congresses.

The Murray-Conrad-Smith amendment would provide 2 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 2-year coverage to bridge the gap to implementation of a Medicare prescription drug benefit.

We have received a CBO score for the 2 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.

Mr. President, I thank the Senator from New York.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I appreciate very much the leadership Senator MURRAY has provided on this issue. I really took her legislation and, because I am a member of the Finance Committee, I had an opportunity to offer it. But I want to make clear, this is a bill Senator MURRAY introduced. I was proud to pick it up in the Finance Committee so it could be offered at the appropriate time there.

I thank her for her leadership. I think we are close to getting this accomplished. It will be a great tribute to the Senator from Washington and the legislative leadership she has provided.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I join with my colleague from North Dakota in thanking the Senator from Washington for championing this cause for so long because it is clearly long overdue. And I thank both Senators for presenting it to us in this context. I look forward to supporting it.

Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside so I may offer several amendments.

The PRESIDING OFFICER. That authority has already been granted.

AMENDMENTS NOS. 1000 AND 999

Mrs. CLINTON. Mr. President, I rise today to speak of four amendments I have filed. And I would like to discuss each in turn, starting with amendment No. 1000, offered on behalf of myself, Senator TIM JOHNSON, and Senator——

The PRESIDING OFFICER. If the Senator will suspend for a moment, we are trying to find the amendments here at the desk.

The clerk will report the amendments that are at the desk.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself, Mr. JOHNSON, and Mr. BINGAMAN, proposes an amendment numbered 1000.

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 999.

The amendments are as follows:

AMENDMENT NO. 1000

(Purpose: To study the comparative effectiveness and safety of important Medicare covered drugs to ensure that consumers can make meaningful comparisons about the quality and efficacy)

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.

AMENDMENT NO. 999

(Purpose: To provide for the development of quality indicators for the priority areas of the Institute of Medicine, for the standardization of quality indicators for Federal agencies, and for the establishment of a demonstration program for the reporting of health care quality data at the community level)

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.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Thank you, Mr. President.

AMENDMENT NO. 1000

Mr. President, amendment 1000, offered on behalf of myself and Senators TIM JOHNSON and JEFF BINGAMAN, is being offered to ensure our seniors have information they need to make informed consumer choices about their drugs, and also to ensure practitioners have the information needed to choose the right drug for a patient, and, further, that the private plans this bill would create have the information they need to make formulary and benefit design choices based on sound science.

This amendment ensures that various Government agencies—NIH, FDA, CMS, and the others involved in this effort—conduct research comparing the efficacy and, if applicable, the comparative safety of the top drugs used by Medicare and Medicaid beneficiaries who are Medicare eligible.

Now often there are a number of competing drugs to treat the same condition. But which is more effective? Oftentimes we just do not know.

While the FDA is responsible for determining safety and effectiveness of prescription drugs compared to a placebo, there is no Government entity responsible for examining whether drug A is more effective at treating a particular condition than drug B. Meanwhile, drug companies do not always have an incentive to do head-to-head trials of the drugs they put out versus those of their competitors. But this information is critical to all decision-makers, to patients and consumers, to practitioners, and to the private plans that are being created.

Now clinicians have told me they are frequently trying to decide whether to switch a patient from an old drug to a new drug. They are not deciding between the old drug and a placebo; they are deciding between a drug they have used for a particular patient and then one which has come to their attention because it is now on the market, and they are trying to decide: Which is best for my patient? They wish they had more information that would enable them, besides trial and error and possible adverse consequences, to make that determination.

Clearly, consumers will also benefit from more sources of information. Right now advertising is a source available to consumers, but this amendment will help us provide an unbiased, scientific source of information that consumers can compare side by side rather than just a beautiful advertisement of people running through a field or twirling their grandchildren and then being told: This is the drug for the condition you have. They will be able to say: Well, wait a minute. Here is the drug I have been prescribed, here is a drug I have heard about. Let me look on the Internet to see what the differences might be.

Now we have all heard of ''me too'' drugs, and there is nothing wrong with ''me too'' drugs. Sometimes a ''me too'' drug will work incrementally better than a previous drug or it may be better tolerated. Even if a ''me too'' drug does not have those characteristics, it might be superior for a certain portion of the population but not for others. The problem is, we do not have that kind of comparative data.

My amendment directs NIH to do comparative efficacy trials for the top Medicare drugs—the ones that are primarily prescribed for the Medicare population—for the kinds of conditions the Medicare population primarily suffers from.

No single study will settle that question once and for all, so my amendment then directs the Agency for Health Research and Quality, AHRQ, to do what it does best, which is to synthesize the literature that is out there as well as the NIH data to report information on the comparative efficacy of these medical interventions that we are subsidizing now in this bill for our seniors.

HHS will then make this comparative information available to clinicians, to Congress, to relevant Federal agencies. And it will, most particularly and importantly, make that available to seniors so they can make informed choices for themselves.

Under this amendment, we would put this information on the Internet. FDA would look at whether this information needs to be included in drug labels, and drug ads would also contain this information so that they do not mislead seniors.

One indicator of the rarity of these studies is that completion of a comparative efficacy study can make national news. For example, many of us

read last December when the National Heart, Lung, and Blood Institute published a study and discovered that it corrected the assumption that newer drugs, such as calcium channel blockers and ACE inhibitors, which cost 30 to 40 times more than diuretics, were not more effective than those long-time treatments for high blood pressure. This is information we have needed for years. We have one of the most advanced health care systems, if not the most advanced, in the world. If the information stream our doctors count is such a tiny trickle that the daily news can keep track of all major developments, then this amendment must be passed in order to give us a sound scientific basis for the decisions that are going to be made with the $400 billion that we are allocating.

When the research is done, as we learned about in the calcium channel blockers and ACE inhibitors versus old-fashioned diuretics, it is important and its benefits are immediately obvious.

In January 2003, the American Journal of Ophthalmology published an article comparing the efficacy of two glaucoma drugs. One is latanoprost and the other bimatoprost. These were compared in an NIH-sponsored randomized clinical trial. Despite the fact that the Latanoprost is currently the most popular medication, the study found that Bimatoprost was more effective.

This is critically important because if we are going to be putting money into drugs and we are going to be holding out the promise to our seniors that finally help is on the way, then let's make sure these tax dollars are used to fund the drugs that are most effective.

In 1999, an NIH-sponsored study showed that a well-known, safe, cheap generic drug, Metoprolol, was just as effective for treating patients with heart failure as a more expensive drug which had come on to the market just a few years earlier. Some may say these studies could promote a one-size-fits-all approach to prescribing, but to the contrary, these studies can actually help make prescribing more nuanced and appropriate to each subpopulation.

For instance, in March 2003, the American Journal of Cardiology reviewed numerous clinical trials of medications used to treat what is called atrial fibrillation, a type of heart arrhythmia, and came up with recommendations about what are the most effective drugs for use for this condition based on what the underlying cause of the condition was in each case.

As someone who is fast approaching the age of Medicare eligibility, I want, both for my pocketbook and my health, to know that my doctor and I have the best information available about which drug is appropriate for me. And I certainly think that we can, through this amendment, begin to provide that information to ensure that seniors and their physicians have good, solid data on which to make their decisions.

This amendment is supported by a number of groups that are aware of the significance of trying to put into this bill some scientifically based data on which to make these decisions. The RxHealth Value Coalition is supporting the amendment. I have a letter from them. They consist of not only large employers—Verizon, General Motors, Ford, et cetera—but Blue Cross, Blue Shield, Kaiser, AARP, and many others.

I ask unanimous consent to print the RxHealth Value letter of June 24, 2003, supporting this amendment, in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RXHEALTHVALUE,
Washington, DC, June 24, 2003.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CLINTON: As the 108th Congress considers reforming the Medicare program and addressing one of the programs major shortcomings—lack of an outpatient prescription drug benefit, we want to express support for your amendment to the Medicare legislation being considered by the Senate that would provide limited support for the Centers of Medicare and Medicaid Services, the Center for Medicare Choices, which would be created by S. 1, the National Institutes of Health and the Agency for Healthcare Research and Quality to collaborate on studies to compare the relative efficacy and safety of prescription medicines designed to treat the same condition. It is this very information that is vital to patients, practitioners, and purchasers. With comparative information on prescription medicines patients, practitioners and purchasers can make better decisions with respect to choosing the prescription medicines to take, prescribe, cover, and pay for.

RxHealthValue is a national coalition of large employers, consumer groups, labor unions, health plans, health care providers and pharmacy benefit managers that, through its members, represents almost 100 million Americans. RxHealthValue is committed to research, education and both public- and private-sector solutions to ensure that Americans receive the full health and economic value from their prescription drugs. The Coalition's definition of ''value'' includes effectiveness, cost, appropriate use and safety.

Your amendment is a very important component of any Medicare prescription drug benefit proposal, since it is imperative that the federal Centers for Medicare & Medicaid Services (CMS) and the proposed Center for Medicare Choices (CMC) have the needed information to be a prudent purchaser of prescription drugs. We are pleased that you ask the National Institutes of Health (NIH) to add to the very limited research results from which evidence-based reviews get their information, and that you recognized the importance of dissemination so that information gets to providers and consumers when they need it. We agree that AHRQ's Evidence-based Practice Centers (EPCs), which have been involved in the innovative Oregon prescription drug program, would be an outstanding vehicle for such reviews.

This legislation is especially important as Congress works to provide Medicare beneficiaries with high quality outpatient drug coverage. We applaud your efforts on this important amendment and look forward to working with you and others to ensure that improved information on prescription drugs is available to all.

For more information on RxHealth's position on this and other drug value initiatives, please contact Steve Cole, RxHealthValue Policy Committee Chair, at 202–296–1314.

Again, thank you from the member organizations of RxHealthValue:

Blue Cross/Blue Shield.
Kaiser.
AARP.
National Consumers League.
Verizon.
Association of Community Health Plans.
General Motors.
Ford.
Daimler Chrysler.
Families USA.
National Organization of Rare Disorders.
American Academy of Family Physicians.
Academy of Managed Care Pharmacy.
UAW.
AFSCME.
Pacific Business Group on Health.
Midwest Business Group on Health.
Washington Business Group on Health.
Advance–PCS.
Caremark Rx.
AFL–CIO.

Mrs. CLINTON. Similarly, I have a letter from Consumers Union, dated June 24, 2003, which also supports amendment No. 1000, and I ask unanimous consent that letter, too, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSUMERS UNION,
June 24, 2003.

Hon. TIM JOHNSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSON: Consumers Union strongly supports your amendment that would provide for study by the National Institute of Health and the Agency for Healthcare Research and Quality of the comparative effectiveness of prescription drugs. The development of scientific evidence-based information about the relative effectiveness of drugs has the potential to dramatically increase consumers' (and taxpayers') bang-for-the-buck paid for prescription drugs.

Millions of Medicare beneficiaries (in addition to the tens of millions of uninsured and underinsured consumers nationwide) are paying increasing out-of-pocket costs for their prescription drugs. Despite these escalating costs, it is often difficult for consumers and health care professionals to ensure that consumers receive value for each healthcare dollar spent.

The proposed amendment would create a resource for independent information about the comparative medical effectiveness of important medicines. We believe that this information will substantially reduce the nation's prescription drug expenditures, because consumers and doctors will be able to make decisions using reliable evidence-based information about comparative effectiveness. The amendment would require this information to be made available through the Internet to the public. As a result, consumers, employers, state governments and the federal government will have access to information that will enable them to choose more cost-effective medicines without sacrificing medical effectiveness or quality of care.

Sincerely,

GAIL E. SHEARER,
Director, Health Policy Analysis,
Washington Office.

Mrs. CLINTON. Finally, I have a letter from Families USA, dated June 24, 2003, that similarly supports the amendment. I will read the following paragraph from it:

It would be unfortunate if Congress decides to spend $400 billion on pharmaceuticals over the next decade, without providing a few dollars to ensure that what we are buying is indeed worth buying.

I ask unanimous consent that letter be printed in the RECORD as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAMILIES USA,
June 24, 2003.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: Congratulations on your amendment to help Americans understand which prescription drugs are truly effective and safe. Families USA, the national health consumer advocacy organization, strongly endorses the effort of you and Senator Johnson to provide reliable, unbiased information on pharmaceuticals.

Too often today, prescription drug information is influenced by the manufacturer, by advertisements, and by clinical studies financed by those who will gain from favorable reports. Americans need an objective, reliable source of information on which prescription drugs are most effective.

It would be unfortunate if Congress decides to spend $400 billion on pharmaceuticals over the next decade, without providing a few dollars to ensure that what we are buying is indeed worth buying.

Thank you again for you leadership on this important health consumer initiative.

Sincerely,

RONALD F. POLLACK,
Executive Director.

Mrs. CLINTON. Mr. President, if we are serious about making changes that will improve the health of our seniors on Medicare, I hope that we look to establish in this bill the proposition that good information, solid science that can be made available to seniors, to clinicians, to plans, be part of what we are establishing with the proposition that this money needs to be well spent, well spent not only to safeguard the taxpayers' dollars but well spent to ensure that our doctors and patients get the best possible treatment.

I also am offering amendment No. 999 that is intended to ensure that Medicare plans compete to improve rather than cut corners on quality. This bill already includes a measure that I have supported, along with Senator HATCH and others, to commission the Institute of Medicine to ensure the Medicare Program pays plans for providing higher quality care.

Unfortunately, even for the many common diagnoses and treatments that are part of a senior's medical history, we lack the quality standards that the Medicaid Program would use to help consumers make informed comparisons and choices among health plans.

For some diseases, the National Commission for Quality Assurance does collect information about health plans by providing data, for example, on how well HMOs screen for breast cancer or provide flu shots for older adults.

For many other diseases, however, we do not know which plans make sure that their diabetic patients get their eyes examined for retinal damage, what percent of asthmatics receive adequate therapy to control their asthma, or many other issues that go to the heart of the quality of health care that is being provided to our seniors.

The data tells us that Medicare beneficiaries are often not receiving the care they need to maintain their health. In 2001, for example, 23 percent of Medicare beneficiaries in private health plans did not have their cholesterol managed after a heart attack.

Now, my amendment is based on recommendations made by the Institute of Medicine. It authorizes a collaborative effort among the relevant Government agencies to develop quality indicators in the 20 most important areas identified in this Institute of Medicine report entitled ''Priority Areas for National Action.'' It authorizes the Quality Interagency Coordination Task Force—that is a task force that brings together all the Federal agencies that are needed to collect health quality data—to implement these indicators so that they are all collecting quality information in the same way. The Secretary of Health and Human Services would then develop demonstration programs for communities to engage in community-wide reporting, according to these quality indicators.

This amendment also has the potential to lower the cost of the Medicare Program. Because plans will provide quality measures that consumers will use, health plans will want to implement those quality improvement measures that have also been proven to lower health care costs. One such program, as an example, is a diabetes intervention program implemented by Group Health Cooperative, a group model health plan in Washington State. This intervention program improved diabetic blood sugar control and saved between $685 and $950 annually from reduced hospital admissions, emergency department visits, and physician consultations.

This is the kind of emphasis on quality that I think we need to put into this bill. Otherwise, as we try to make sense of the variety of options and choices that are available, we are not going to know what improved quality or what decreases costs. That should be one of our goals, and this amendment holds out the promise that the Medicare Program, with proper implementation of quality indicators, can do both—improve health and quality control and decrease costs.

AMENDMENT NO. 953

Mrs. CLINTON. Mr. President, I will also be talking about amendment No. 953, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 953.

Mrs. CLINTON. 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 provide training to long-term care ombudsman)

On page 608, between lines 10 and 11, insert the following:

SEC. ___. TRAINING FOR LONG-TERM CARE OMBUDSMAN.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Administration on Aging and in consultation with the Director of the Agency for Healthcare Research and Quality and the Administrator of the Centers for Medicare & Medicaid Services, shall authorize a program, to be developed and implemented by the National Long-Term Care Ombudsman Resource Center, for the training of long-term care ombudsmen in the use of quality of care information.

(b) TRAINING.—Under the program developed under subsection (a), training shall be provided to long-term care ombudsman to enable such ombudsman to educate consumers concerning—

(1) nursing home quality of care issues;

(2) available nursing home quality of care reports, including existing quality data that the Administrator of the Centers for Medicare & Medicaid Services has released for use by the public in choosing long-term care facilities; and

(3) the manner in which an individual can successfully integrate quality information into health care decision making regarding nursing home decisions.

(c) DUTIES OF RESOURCE CENTER.—The National Long-Term Care Ombudsman Resource Center shall—

(1) develop and maintain a curriculum for ombudsmen;

(2) develop, produce, and maintain training materials;

(3) conduct train-the-trainer programs at regional and national levels; and

(4) act as a clearinghouse for best practices in communicating the significance of nursing home quality indicators to residents and their caregivers.

(d) PILOT PROGRAMS.—The Secretary of Health and Human Services shall award grants for the establishment of 1-year pilot demonstration programs in 10 States using long-term care ombudsmen to educate consumers regarding home health care quality. Such pilot demonstration programs shall test the effectiveness of having a committed position within the State dedicated to helping consumers use home health care quality indicators.

(e) REPORT.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit to Congress a report concerning the effectiveness of the program established under this section, including the benefits of providing for dedicated staff who are responsible for educating consumers to use home health quality indicators in their health care decision-making.

(f) AUTHORIZATION.—In addition to any other amounts authorized to be appropriate for long-term care ombudsman programs, there are authorized to be appropriated to carry out this section $4,000,000 for fiscal year 2004 (of which $1,000,000 shall be used to carry out subsection (d)), and $2,000,000 for each fiscal year thereafter.

Mrs. CLINTON. Mr. President, amendment No. 953 would empower Medicare beneficiaries and their families in making decisions about nursing

homes and home health services. Data on nursing home quality is publicly available through a project strongly supported by Administrator Scully, and I am very appreciative of that because that information is imperative.

However, I know from talking with people throughout New York that there are still many problems in nursing homes with respect to errors and mishaps that undermine the quality of care, the quality of life and, in some respects, even the health of the nursing home residents. Many people still don't know about this existing quality data and about the existing ombudsman program within the administration on aging that is intended to help families navigate nursing home decisions.

This amendment would establish a national long-term care ombudsman resource center, which will help to develop and train ombudsmen. The amendment would establish pilot programs, including grants to create ombudsman offices in 10 States. These are the people—it should really be ''ombudspeople,'' I guess—who are uniquely positioned to know about the facilities they serve. They visit the facilities regularly. They are often located at agencies in the local communities. They have firsthand knowledge. They are very valuable resources. However, their knowledge, if it doesn't actually get to the users, the nursing home residents and, more importantly, their family members or advocates, doesn't help anyone.

This pilot project would fund specific ombudsman programs to provide comprehensive outreach, public education, and individual consultation that integrate quality information into health care decisionmaking. Through this pilot project, the ombudsman center would be able to identify the resources needed to actually provide consumer education on long-term care and home health, as well as best practices and collaborative models that could then be replicated around the country.

I ask my colleagues also to support this amendment because, again, I think information is critical. We talk about trying to create more of a market for these health care resources. Markets exist on information. A market without good information is not really a market at all. So if we are going to move toward the private market and provide these private health plans as competition to the existing Medicare delivery system, then I think we have to do more than just talk about the market. We need to empower the consumers within the marketplace. Information is that basis for empowerment.

AMENDMENT NO. 954

Mrs. CLINTON. Mr. President, I ask the clerk to report amendment No. 954, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 954.

Mrs. CLINTON. 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 require the Secretary of Health and Human Services to develop literacy standards for informational materials, particularly drug information)

On page 46, between lines 13 and 14, insert the following:

''(i) HEALTH LITERACY STANDARDS.—

''(1) IN GENERAL.—For purposes of assisting eligible entities in providing quality assurance measures as described in subsection (c)(1)(B), the Secretary, acting through the Director of the Agency for Healthcare Research and Quality, the Administrator of Health Resources and Services Administration, the Director of the National Library of Medicine, and the Commissioner of Food and Drugs, shall develop standardized materials that pharmacists may use to assist non-English speaking or functionally illiterate patients in the safe and appropriate use of prescription drugs. Such materials may include the use of pictures and the development of standardized translations in multiple languages of prescription labels and bottle labels and other patient safety initiative information. Such materials shall be available electronically for direct access by pharmacists.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2004 and 2005.

Mrs. CLINTON. Mr. President, this amendment is intended to improve the safety of the prescription drug program. As our seniors are using a growing number of medications to stay out of the hospital, to live healthier and longer lives, we are inadvertently, but inevitably, creating a burden on our seniors to understand and know how to use all of these prescription drugs. There are interactions, there are other issues, there are many problems with trying to sort out for our seniors how drugs work, how they interact with one another. This is a very important issue that I think, again, we need to address at the beginning of this process, not after some additional problems have been discovered.

In a recent study of adverse drug events published in the Journal of the American Medical Association, 21 percent of preventable adverse drug events were caused by patients not following drug prescription instructions. That is just human nature. People make mistakes and, as you get older, it is harder to read all that little writing on the prescription bottles. That is something that just kind of comes with the process. Of course, we have many people for whom English is not their first language. We have others who have challenges with eyesight and literacy. So, clearly, our seniors, like the rest of us, could make mistakes.

Studies have found that one-third of patients often don't take the prescription the way they are supposed to because they don't understand it. Now, if you have a dose of a three-times-a-day antibiotic, and you also have other prescription drugs to be taken five, six, seven times a day, or whatever the combination is, there are all kinds of opportunities for confusion because many seniors take complex drugs with multiple dangerous side effects, often much more serious than those from antibiotics. They are more likely to suffer injuries and hospitalizations as a result. As many as 60 percent of the elderly have these problems about understanding and following the directions. This is a very critical statistic. Twenty-three percent of nursing home admissions in our country result from the inability of older Americans to manage their medication at home.

That is why I am offering this amendment to ensure that the Secretary of HHS works to ensure the use of health literacy standards and information that will minimize adverse drug events, to ensure that we develop drug informational materials for non-English-speaking people and the functionally illiterate patients that can be made available to pharmacists who can access them electronically for easy use.

So, Mr. President, these amendments can be summed up in a very few words: enhanced quality, lower cost.

If we enhance quality, we avoid a lot of the problems that exist in our system today. We learn more about quality. We empower patients, as well as clinicians, with information that can better determine quality outcomes, and we save money. We do not have people being admitted to the hospital because they mix up their drugs. We do not have people trying to figure out how they can get good information about quality standards in nursing homes. We have all kinds of issues that cost money, as well as put the health and well-being of our seniors at risk.

I ask that my colleagues favorably consider these amendments. There is no cost attached to these amendments, but they will do what we hope to achieve by this significant legislation: improve quality for our seniors and lower costs in the long run by making prescription drugs readily available and understanding appropriately their use.

Mr. President, I thank you for your kind attention, and I yield the floor.

AMENDMENT NO. 1000

Mr. JOHNSON. Mr. President, I join my colleagues Senators CLINTON and BINGAMAN today to offer an amendment to S. 1 that will provide consumers and practitioners with real, objective information regarding the comparative effectiveness of prescription drugs.

Too often, prescription drug information is influenced by drug manufacturers, through advertisements, and by clinical studies financed by those who will gain from favorable reports. Consumers are just inundated with information—from direct-to-consumer advertising on drugs which can paint a misleading picture, to a sea of free

drug samples from their physicians—with all this information it can be extremely difficult to make a sound decision which can be just overwhelming for average Americans.

But what does the data really say about differing prescription drug options? Does a newer drug that costs more than an earlier version necessarily do a better job for most patients? Is it possible that a Medicare beneficiary may get the same, or even better outcome from the drug that has been on the market for a longer time? We just really don't have the answers to these—questions at least from independent, objective sources.

We are about to create a massive new program that will effect 40 million Americans and with this comes responsibility to deliver a program that ensures the availability of appropriate prescription drugs for all beneficiaries. This amendment will create a reliable source for valid, evidence-based information about the comparative medical effectiveness of medicines used by Medicare beneficiaries. It will provide unbiased information on how drugs that treat particular diseases and conditions compare to one another.

By authorizing the National Institutes of Health, in coordination with the Agency for Healthcare Research and Quality to conduct research on comparative effectiveness of drugs, consumers, employers, State governments and the Federal Government will finally have access to information that will enable them to choose medicines based on clinical research. This information will be made available to help them make better decisions with respect to choosing the prescription medicines to take, prescribe, cover and pay for. By using the objective, scientific expertise available at NIH and AHRQ, this amendment assures that the information received comes from independent and impartial sources.

This amendment is supported by RxHealthValue, a national coalition of large employers, consumer groups, labor unions, health plans, health providers and pharmacy benefit managers that through its members represent almost one-hundred million Americans. It is also supported by Families USA and Consumers Union.

This amendment preserves individuals' freedom to get any medicine that they want, but would encourage the use of medicines that are scientifically proven more effective for patients. It will not create ''one-size-fits-all'' medicine as Republicans will try and tell you. It does nothing to prevent independent decisionmaking by practitioners and their patients, just better educated decisionmaking.

Our Republican colleagues believe in the strength of the free market. Well, a well functioning marketplace depends on the free flow of information. Denying consumers and providers, as well as other purchasers of prescription drugs access to comparative information about effectiveness means that decisions in the marketplace are made without perfect information—which should not be the case in an open market. You are not going to buy a car without taking a look at Consumer Reports are you? Are you only going to base your purchase on the glitzy adds in ''Car and Driver'' magazine? I think we all know the answer to this is ''no'', and most certainly Medicare beneficiaries should have access to similar information for drugs they put in their bodies as they do for the car they drive.

AMENDMENT NO. 985, AS MODIFIED

Mr. REID. Mr. President, on behalf of Senator EDWARDS of North Carolina, I send a modification to the desk, and I ask unanimous consent the amendment be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 985), as modified, is 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, if the Secretary so requires, 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), if the Secretary has required information related to comparative safety and effectiveness, offer a benefit with respect to safety or effectiveness (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 if such comparative information is available)''.

(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 effectiveness of the drug (including effectiveness in comparison to similar drugs for substantially the same condition or conditions if such comparative information is available);

(ii) information relating to side effects and contraindications; and

(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 representations relating to side effects and contraindications, provided that, nothing in this section shall require explicit images or sounds depicting 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.

AMENDMENT NO. 1036

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside, and I send an amendment to the desk on behalf of Senator BOXER. This is an amendment to eliminate the coverage gap for individuals with cancer.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, proposes an amendment numbered 1036.

Mr. REID. 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 eliminate the coverage gap for individuals with cancer)

On page 53, between line 8 and 9, insert the following:

''(6) NO COVERAGE GAP FOR ELIGIBLE BENEFICIARIES WITH CANCER.—

''(A) IN GENERAL.—In the case of an eligible beneficiary with cancer, the following rules shall apply:

''(i) Paragraph (2) shall be applied by substituting 'up to the annual out-of-pocket limit under paragraph (4)' for 'up to the initial coverage limit under paragraph (3)'.

''(ii) The Administrator shall not apply paragraph (3), subsection (d)(1)(C), or paragraph (1)(D), (2)(D), or (3)(A)(iv) of section 1860D–19(a).

''(B) PROCEDURES.—The Administrator shall establish procedures to carry out this paragraph. Such procedures shall provide for the adjustment of payments to eligible entities under section 1860D–16 that are necessary because of the rules under subparagraph (A).''

AMENDMENT NO. 1037

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside, and I send an amendment to the desk on behalf of Mr. CORZINE. This is a technical amendment regarding federally qualified health centers.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. CORZINE, proposes an amendment numbered 1037.

Mr. REID. 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 permit medicare beneficiaries to use Federally qualified health centers to fill their prescriptions)

At the end of subtitle A of title I, add the following:

SEC. ___. CONFORMING CHANGES REGARDING FEDERALLY QUALIFIED HEALTH CENTERS.

(a) PERMITTING FQHCS TO FILL PRESCRIPTIONS.—Section 1861(aa)(3) (42 U.S.C. 1395x(aa)(3)) is amended—

(1) in subparagraph (A), by striking ''and'' after the comma at the end;

(2) in subparagraph (B), by inserting ''and'' after the comma at the end; and

(3) by adding at the end the following new subparagraph:

''(C) drugs and biologicals for which payment may otherwise be made under this title,''.

(b) ELIMINATION OF PER VISIT LIMIT.—Section 1833(a)(3) (42 U.S.C. 1395l(a)(3)) is amended by inserting '', except that such regulations may not limit the per visit payment amount with regard to drugs and biologicals described in section 1861(aa)(3)(C)'' after ''the Secretary may prescribe in regulations''.

AMENDMENT NO. 1038

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside, and I send an amendment to the desk on behalf of Senator JEFFORDS dealing with critical access to hospitals.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. JEFFORDS, proposes an amendment numbered 1038.

Mr. REID. 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 improve the critical access hospital program)

At the end of section 405 add the following:

(g) EXCLUSION OF CERTAIN BEDS FROM BED COUNT AND REMOVAL OF BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS.—

(1) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—Section 1820(c)(2) (42 U.S.C. 1395i-4(c)(2)) is amended by adding at the end the following:

''(E) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—In determining the number of beds of a facility for purposes of applying the bed limitations referred to in subparagraph (B)(iii) and subsection (f), the Secretary shall not take into account any bed of a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of section 1886(d)(1)(B)) of the facility, except that the total number of beds that are not taken into account pursuant to this subparagraph with respect to a facility shall not exceed 25.''.

(2) REMOVING BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS BY CRITICAL ACCESS HOSPITALS.—Section 1886(d)(1)(B) (42 U.S.C. 195ww(d)(1)(B)) is amended by striking ''a distinct part of the hospital (as defined by the Secretary)'' in the matter following cause (v) and inserting ''a distinct part (as defined by the Secretary) of the hospital or of a critical access hospital''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to determinations with respect to distinct part unit status, and with respect to designations, that are made on or after October 1, 2003.

AMENDMENT NO. 1039

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside, and I send an amendment to the desk on behalf of Senator INOUYE dealing with Native Hawaiians.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. INOUYE, proposes an amendment numbered 1039.

Mr. REID. 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 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)

At the appropriate place, insert the following:

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.

Mr. REID. 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. SESSIONS. 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. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside so that I may speak on my amendment No. 1011.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1011

Mr. SESSIONS. Mr. President, the bill we are moving forward today is a prescription drug bill, a Medicare reform bill. It is not a welfare reform bill. Unfortunately, through the process, as it often happens when legislation moves through this body, the Finance Committee, without having hearings, faced an amendment that came up and it became a part of the bill that is on the Senate floor today. It would provide benefits not to American citizens but to non-citizens. It

would amend the law that was passed some time ago prohibiting such actions.

So I have sent to the desk an amendment which would strike section 605 of the bill, the section that allows Medicaid and State health insurance program coverage to be given to noncitizens, and insert a sense of the Senate that this section should be referred back to the Finance Committee.

In 1996, with a vote of 74 to 24, this body made a principled, purposeful decision during reform of welfare in this country, that non-citizens should not access Federal programs such as TANF and Medicaid for the first 5 years they are in the United States. That is because these costs are supposed to be incurred by the sponsors of those people who come into the United States. That is why we make the sponsor of an immigrant who comes into the United States lawfully sign an affidavit that they will be responsible for that person's health care benefit. Of those Senators who are still in service in this body, 45 voted for it. That is quite a significant number.

Section 605 would lift the 5-year ban for pregnant women, and children, from fiscal year 2005 through fiscal year 2007. In other words, we would allow pregnant women and children who have sponsors in the United States to access the welfare system of America to pay for their health care, contrary to the fully debated and wisely established rule in 1996 not to do that.

The President is concerned about that. The administration is opposed to this change. They note that the administration has proposed substantial new flexibility on the part of Medicaid and SCHIP reform, and coverage for legal immigrants should be examined as part of this context.

So we will be examining Medicaid, the SCHIP program, and Medicare reform later this year. That is the time we should be discussing changing our current policy as to what benefits are available to noncitizens, not slipping it through as part of this important bill.

This is not a decision that we should change, not a policy that ought to be altered, without some significant study and debate. We are amending the welfare reform bill as part of a prescription drug bill. This is a major policy shift. It ought not to be added in this fashion. This bill is for America's senior citizens, not for non-citizens. If we want to make such important changes in funding eligibility and criteria for these programs, we ought to be ready to have a full and open debate on welfare policy. That is the kind of debate we had in 1996. I think some good decisions were made then that helped this country tremendously. It helped poor families move from welfare to work and did a lot of things for children in this country.

The Finance Committee, which added section 605, should have hearings and go about it as part of the welfare reform bill. I feel strongly about that.

Before 1996, the cost of welfare for immigrants had skyrocketed in America to $8 billion a year. That was in 1996. Harvard economist George Borjas found that immigrant households were 50 percent more likely to use Federal welfare programs than were citizen households. So this was the untenable position and situation in 1996, and that is what was ended by the legislation then.

In 1996, Congress dealt specifically with the issue of welfare and immigration. In an overwhelming manner they passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which was signed by President Clinton and became law.

The 1996 welfare and immigration reforms significantly restricted participation of new immigrants in Federal means-tested poverty programs and dramatically curtailed the access of permanent resident aliens to Federal welfare programs. That was exactly our goal. The 1996 reform strengthened the welfare system and made more funds available for citizens in need. In passing this law in 1996, this Senate specifically stated certain national policy concerns related to welfare and immigration that should not be changed haphazardly.

They said self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration status. Self-sufficiency is a key part of our whole concept of immigration.

> It continues to be the immigration policy of the United States that:
> (A) Aliens within the Nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and the availability of public benefits not constitute an incentive for immigration to the United States.
>
> Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.
>
> It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.
>
> It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

That is what we are talking about. That sums it up. That was a thoughtful policy and change made in 1996. We ought not to have it slip through here on this important bill today without full hearings and discussion.

Section 605, which now in this bill, would repeal the general prohibition of nonqualified aliens being eligible for any Federal public benefits, as it applies to protect women and children, even though ample exceptions for certain public benefits are already provided, such as emergency medical assistance. That is available now. Short-term disaster relief. Immunization, housing, and communities development assistance, and any assistance specified by the Attorney General.

Section 605 waives the 5-year waiting period before immigrants are allowed to receive Federal benefits, thus creating a huge incentive for the benefited class of citizens to rush the borders for instant care. A person who has the possibility of coming to this country, has considered it and decided not to, if their child has a health problem, would not they, therefore, be incentivized to try to come across this border, knowing they could apply for and have public benefit of the United States?

And we would like to do that. Do we do that for the entire world? It is just not possible. It is not good public policy. A nation has to have policy that is rational and defensible.

A wide range of Federal programs are exempted from this requirement, including emergency Medicaid, certain immunizations, short-term disaster relief, school lunch programs, the WIC program, foster care, adoptive assistance, and Head Start. Those are available now.

Section 605 will dissolve the financial accountability requirement of the sponsor. If section 605 passes, sponsors will no longer be held responsible to the Government for the cost of the Federal means-tested benefits to the aliens they sponsor.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, coupled with the 1996 welfare reform law, purposefully altered the obligations of persons whose sponsored immigrants arrived or are adjusting status in the United States.

In 1996, as part of the immigration reform, we required that affidavit of support be rewritten as a legally binding contract, enforceable against the sponsor through the time the sponsor immigrant becomes a citizen or has contributed to Social Security for 10 years. Affidavits of support are intended to implement the provisions of the INA that excludes aliens who appear ''likely at any time to become a public charge.'' No nation accepts people into their country who are likely to be a public charge of the country. A nation accepts people who are going to be contributors and will benefit that society.

This is consistent with the recommendation of the Commission on Immigration Reform. In a report to Congress the commission stated sponsors of immigrants should be held financially responsible for the immigrants they bring into this country.

Under the INA code a sponsor is defined as a person who is a citizen, national or lawfully admitted, of the United States, 18 years of age, lives in the United States and demonstrates the means to financially maintain a sponsorship. They can petition the Federal Government through an affidavit of support for the admittance of an individual residing outside the United States.

In other words, a sponsor has to be a person who has the means to financially maintain a sponsorship. If they

cannot sign that affidavit honestly, then the person should not be admitted into the country. The sponsor requirement allows for the admission of any person into the United States who is unable to take care of himself or herself without becoming a charge to the taxpayers by assuring, via affidavit, that the sponsor will financially support the person.

An affidavit for support may not be accepted unless the sponsor agrees to, one, provide financial support to maintain the sponsored alien; two, be legally bound to the Federal Government of any entity that provides any means-tested public benefit which includes Medicaid; and three, submit to the jurisdiction of any Federal court.

If a sponsored alien received any means-tested public benefits, the entity which provided such benefits can request to be reimbursed by the sponsor, and if reimbursement is not satisfied, then the sponsor will face civil penalty.

Under this proposed legislation, the sponsors of these new immigrants would be absolved from their liability under the program. Aliens will no longer be supported and maintained by their sponsors and would become a charge on the public once again, a problem we sought to and did remedy in 1996.

As we finish here tonight, we have a lot of important matters involved in this legislation, involving a lot of money. CBO estimates that this provision would cost half a billion over three years. It spends that money by changing what I think to be a good policy by creating a bad policy, a policy that will incentivize people to come to the United States for free health care when they may not otherwise wish to come or may not otherwise benefit from coming here. We really have not had the kind of debate, as a comprehensive review of welfare, that should be made a part of that.

The Finance Committee will be considering welfare reform. It will be considering these issues in the months to come. They have a lot on their plate.

This amendment simply says let's not rush this through now. Let's not move it through on this important bill that is going to move through Congress. Let's send it back to the Finance Committee. Let's encourage them to give thoughtful and serious concern to it. Let's have them come forward with a program that would justify us changing this important rule, established in 1996.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

MEXICAN BARRIERS TO IMPORTS OF U.S. AGRICULTURAL PRODUCTS

Mr. GRASSLEY. Mr. President, it has been almost 10 years since the North American Free Trade Agreement—NAFTA—went into effect. Overall, this agreement has been a great success for America's farmers and ranchers. Between 1994 and 2002, U.S. Agricultural exports to Mexico grew by 95 percent.

Mexican agriculture has benefited as well from NAFTA. Exports of Mexican agricultural products to the United States increased by almost 97 percent from 1993 to 2001. At the present time, some 78 percent of all agricultural products exported by Mexico are sent to the United States, making the United States by far the largest market for Mexico's agricultural exports. Clearly, the agricultural sectors of both the United States and Mexico have on the whole profited from NAFTA. For this reason, I am confounded by some of the recent actions of the Mexican government that undermine the spirit, if not the letter, of NAFTA.

Allow me to elaborate on some of these actions. Mexico has recently imposed, or threatened to impose, trade barriers to a wide variety of U.S. agricultural products. These products include pork, beef, corn, high fructose corn syrup, rice, apples, and dry beans. Apparently ignoring that increased competition in the Mexican market has benefited that country's consumers, some in Mexico have spoken of renegotiating the agriculture provisions of the NAFTA. Mexico's measures against U.S. agricultural products have certainly caught the attention of many members of the Senate, including me.

Let me explain Mexico's actions that are directly impacting producers in my state of Iowa.

I'll start with high fructose corn syrup. It's true that U.S. producers of agricultural products have, on the whole, benefited from NAFTA. And, at one point, that was the case with U.S. producers of high fructose corn syrup. Mexico was formerly the largest export market for U.S. produced high fructose corn syrup. But in January 2002, the Mexican Congress imposed a tax of up to 20 percent on soft drinks containing high fructose corn syrup.

This move was undoubtedly intended to provide Mexican sugar producers with an unfair advantage in the Mexican market over U.S. high fructose corn syrup producers. As a result of this discriminatory tax, U.S. exports of high fructose corn syrup to Mexico are now at almost zero levels.

Mexico's high fructose corn syrup tax was imposed following WTO and NAFTA panel rulings that found that a 1998 Mexican antidumping order on U.S. high fructose corn syrup did not comply with Mexico's trade obligations.

Clearly, Mexico is going out of its way to prevent the sale of high fructose corn syrup in its market. Mexico's high fructose corn syrup tax is causing great harm to U.S. corn producers and U.S. high fructose corn syrup manufacturers. The U.S. corn refining industry estimates that it is losing up to $620 million annually on account of Mexico's discriminatory tax. It estimates that U.S. corn farmers are losing over $300 million each year due to lost sales to both U.S. and Mexican high fructose corn syrup producers.

I find it especially ironic that Mexico, a country that is actively seeking foreign investment, is treating so poorly the U.S. high fructose corn syrup industry, an industry that has invested heavily in Mexico.

Based upon the promises of NAFTA, U.S. high fructose corn syrup producers made major investments in the United States and Mexico. Mexico has now pulled the rug out from under them. This certainly sends, at best, mixed signals to foreign investors.

Let me give you another example of Mexico's actions against U.S. agricultural products, this one impacting Iowa's pork producers. In January of this year, Mexico initiated an antidumping investigation on U.S.-produced pork. The petition that initiated this investigation has serious deficiencies. for example, the petition was filed by Mexican hog producers, not pork processors, so it is my understanding that the party bringing the case lacks standing under the Antidumping Agreement of the WTO.

While Mexico's antidumping investigation on pork is ongoing, I recognize that Mexican officials last month terminated the Mexican antidumping order on imports of live hogs from the United States. I am pleased with Mexico's decision regarding the live hog order. I strongly hope that this decision provides an indication that Mexican officials will act reasonably and not impose an antidumping order on U.S. pork.

But there are other problems. Large quantities of U.S.-produced pork have been rejected at the Mexican borer during the past year due to alleged sanitary problems. But millions of Americans consume U.S.-produced pork each day, and we know that this product is safe. Mexico's rejection of U.S. pork for non-scientific reasons violates Mexico's WTO obligations.

Iowa's beef producers are also being harmed by Mexico's actions. In April 2000, Mexico imposed antidumping duties on imports of U.S. beef, and this trade measure remains in place. Mexico's investigation resulted in numerous probable violations of Mexico's commitments under the WTO Agreements. On June 16, the U.S. Trade Representative announced that the United States is filing a case at the WTO over Mexico's antidumping order. I fully support the U.S. trade Representatives's actions at the WTO regarding this matter.

Despite the ongoing Mexican antidumping order on U.S. beef, Mexican cattle producers earlier this year filed a safeguard petition on beef from the United States.

Mexican officials have neither confirmed nor denied the existence of this petition. Lack of certainty with regard to this safeguard petition has made it even more difficult for the U.S. cattle and beef industry to plan sales in Mexico.

White corn producers in Iowa are also threatened by potential Mexican trade actions. Mexican officials are hinting at initiating a safeguard investigation on imports of U.S. white corn. In addition, these officials have suggested limiting import permits for white corn for periods of short supply. Such a policy would not comport with Mexico's NAFTA obligations.

Mexico's actions, and threatened actions, against U.S. agricultural products such as high fructose corn syrup, pork, beef, and white corn are having real effects on U.S. producers. Sales in Mexico are being lost or threatened. Uncertainty is making it difficult for U.S. producers to plan for future sales in Mexico.

But Mexico's actions are having a broader effect than lost sales. Mexico's policies are indirectly threatening the entire U.S. trade agenda.

Most of U.S. agriculture was solidly behind the passage of the NAFTA. But with Mexico failing to abide fully with its NAFTA commitments, many U.S. producers are beginning to question the worth of trade agreements.

If America's farmers and ranchers back away from their strong support for new trade agreements, the U.S. trade agenda will lose its biggest proponents. And if the United States falters in its support for trade liberalization, the whole world will suffer.

Given the importance of maintaining the U.S. trade agenda, I urge the administration to make the removal of Mexican barriers to U.S. agricultural products a top priority. The U.S. Government must not overlook systematic efforts by Mexico to keep U.S. farm products out of the Mexican market in disregard of Mexico's international trade commitments.

Finally, I urge Mexican officials to think twice about the effects of their decisions involving U.S. agricultural products. Mexico's actions are threatening that country's trade relations with its largest export market. Damaged trade relations between the United States and Mexico are certainly not in the best interests of either country.

NAFTA can, and will, continue to provide great benefits to farmers, ranchers, and consumers on either side of the border. But this trade agreement will work only if all parties to it abide by their NAFTA commitments.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION AND DRUG COSTS

Mr. DURBIN. Mr. President, one of the most fascinating aspects of this job in the Senate is the myriad of issues that come before us in the course of a day or week. If you followed over the last few moments the two speakers—one from Alabama and one from Iowa—they both were speaking about related issues.

My friend from Iowa and I share an interest in agriculture. His State and mine lead the Nation in the production of corn and soybeans, and naturally we try to export our goods to expand our trade. And he is concerned—and I share his concern—about Mexico. We both voted for the North American Free Trade Agreement in the belief of opening up—and it has opened up—trade substantially between these two neighboring countries, the United States and Mexico. But we have run into some problems here, problems related to corn, as my colleague from Iowa noted, whether we can export white corn to Mexico, which, of course, is a major staple of their diet, being the basis for tortillas, part of the Mexican cuisine, and also whether we can export a product made from corn called high fructose sweetener.

For people who may not be familiar with that term, trust me, virtually every soft drink that you consume in America has high fructose sweetener in it rather than sugar. We want to sell it in Mexico, and they do not want us to sell it there. Frankly, they want to export more sugar to the United States.

So this trade battle is on. The Senator from Iowa is right, this has been going on too long, and it has to come to an end.

I would say to our friends in Mexico—and they are our friends and allies and neighbors—we have to resolve this.

We have to resolve it equitably and honorably, but it has to be done with dispatch. So I certainly support what the Senator from Iowa said.

Now, before he spoke, the Senator from Alabama got up to speak about immigration. And here is the story, as I see it, related to this trade issue.

If the farmers in Mexico—who are struggling to grow their crops, with much less efficiency and productivity than the farmers in the United States—are unsuccessful in their farms, many of them move to the city. It is very common. It happens throughout the developing countries of the world. If they move to the large cities in Mexico and they cannot find a way to sustain their families, there is an alternative: El Norte. They head north. And we have seen a dramatic migration from Mexico to the United States.

In the last 10 years, my State of Illinois has seen a substantial increase in the Mexican-American population. I know it; I see it; I feel it. It is now part of our life in Illinois. The people who have come here I have found overwhelmingly to be some of the finest people I have ever had a chance to meet. It takes real courage to get up and leave your village, your family, your church, your language, your tradition, and to head thousands of miles north into the bitter cold, trying to find a job, to make enough money to sustain yourself and maybe sending back some money to your family in Mexico. Thousands have done it. Many have done it undocumented and illegally, and that is another issue.

I will say, it is naive for us to believe these undocumented immigrants to the United States have not become an integral part of our economy. They are. A leading restaurateur in Chicago said to me: If you removed all of the undocumented people from the restaurants of this great city, you would have to close them down. Every time you turn around and see who is washing the dishes, busing the tables, doing the work—some of the hardest work in my State and others—you will find a lot of people who are here perhaps without legal documentation.

A few minutes ago, the Senator from Alabama said he objected to a provision in the bill we have been debating, S. 1, the prescription drug bill, because this provision says that those women who are legally in the United States—legally in the United States—would be able to qualify for Medicaid coverage and their children for basic health insurance coverage if a State decided to offer that coverage.

That is what the bill says. So if the State of Missouri or the State of Illinois or Iowa or Alabama says: We are not interested in offering Medicaid coverage to legal immigrants who have not been here 5 years—legal immigrant women—then they do not have to. Twenty States have decided, though, it makes good sense to go ahead and enroll these legal immigrant women and their children into Medicaid at their own expense.

Why would a State Governor and legislature decide to pick up and cover these people? Well, for obvious reasons. Women who come to this country in a legal immigrant status often become pregnant and during the course of that pregnancy need prenatal care. If they do not receive prenatal care during their pregnancy they could end up with complications in the pregnancy or some serious illness facing the child.

Now, Governors and legislatures have said it is far better for us to offer prenatal care to that legal immigrant woman and her child, once born, than to run the risk they are going to be unhealthy, not only for their own sakes but for the cost it would bring to society. I think that is perfectly sensible.

The Senator from Alabama objects. He says we should not give States the option to provide, with Federal assistance, that kind of medical care. I think that is a mistake. I think the bill is right. The bill understands that these women, during their pregnancy, are carrying future American citizens. Those babies, once born on our soil, are citizens.

Is it important for us to make sure—or do the best we can to make sure—those mothers are healthy and the babies are healthy. Well, if not for the sake of humanity, certainly from an economic point of view it is. A sick baby is not only a family tragedy, it becomes a social cost. So this bill, by giving to States the option of offering Medicaid to legal immigrant women and health insurance to their children,

once born, I think just makes common sense.

It will be interesting to watch the vote tomorrow to see how many Senators in this Chamber, who feel very strongly about the so-called pro-life position, who want to make certain that we avoid abortions and that we honor the children who are being born, join the Senator from Alabama in denying prenatal care to legal immigrant women and denying their babies, once born, health insurance.

I would think it is obvious, whatever your position on the issue of abortion, that if you believe in families, you would vote against the amendment by the Senator from Alabama.

Let me just say very briefly, when I was a young student, I read a Sherlock Holmes book that I still remember. It was entitled ''The Dog That Didn't Bark.'' Sherlock Holmes solved this mystery by not hearing something but by realizing that he hadn't heard something. The witnesses to this crime had not heard a dog bark. And that was an important piece of evidence for him to determine what happened that led up to the actual murder.

The reason I remembered that is I am listening carefully to this national debate on the floor of the Senate about a prescription drug bill. I am waiting for the barking of the pharmaceutical lobby. Where are the drug companies? Why haven't we heard from the drug companies?

This is a bill that will affect some 40 million senior citizens and provide assistance for them to pay their prescription drug bills, and the drug companies are silent. Why? There are two reasons for it.

First, they believe the passage of a Federal prescription drug benefit is going to reduce the likelihood that more and more States will establish their own State prescription drug plans, bringing down the cost of prescription drugs in each State. I commend to those who follow it a ''Frontline'' program of last week on public television that analyzed this.

As the States of Maine and Oregon and my State of Illinois and others developed prescription drug plans, the pharmaceutical industry challenged them in court, particularly in the case of Maine, and lost the challenge.

So it was at that point that they became more intent on seeing us pass a prescription drug benefit on a national level to try to diffuse this growing public sentiment against increasing drug prices and the growing public sentiment that local and State legislatures had to act on this because the Congress was inept, unable to do it.

So we have this bill before us that is one of the reasons why the pharmaceutical lobby has been strangely silent during this debate. They are happy that we are considering a Federal prescription drug benefit program.

The second reason is even more important. This bill, S. 1, before us now for consideration, is a pretty long bill. As a matter of fact, it is 654 pages long. You will have to search this bill line by line and page by page and I am afraid you will find that after that search, there are few, if any, efforts in this entire bill to control the runaway cost of prescription drugs. So the pharmaceutical companies see this as a win/win situation. We pass a national prescription drug program that takes the heat off the States, and at the same time we do nothing to reduce the cost of prescription drugs to seniors and others across America. So these already very successful companies have to view this as the greatest windfall that has ever come their way.

The Federal Government will pay a percentage of the cost of prescription drugs, but the Federal Government will do little or nothing to control the cost of those drugs.

The senior citizens of this country understand this issue far better than Members of the Senate. In fact, when they were recently asked the question: What is more important to you, to provide a prescription drug benefit under Medicare to help you pay for your prescription drugs or to establish a policy and program that will bring down the excessive costs and the increasing rise in cost of prescription drugs across the Nation, by a margin of almost 2 to 1, they said go after the cost of the drugs. Don't tell me how much you are going to give me if you are not going to control the cost.

Last year, the cost of prescription drugs went up 10 percent in my State of Illinois. Nationally, the figures are higher. If those increases continue, no matter what we pass this week in the Senate, it will not be enough. The cost of drugs will go off the end of the chart, and private insurance companies, HMOs that are being lauded by conservatives, by the President, and the White House as the answer to our prayers, frankly, don't have the interest or the power to make a difference in the cost of these prescription drugs. So the seniors will find themselves at the end of the day with a very limited benefit from this program.

But hope is on the way. Tomorrow I will be offering an amendment which is a dramatically different approach to dealing with prescription drugs. We are going to make cost containment part of our prescription drug program. We are going to follow the model of the Veterans' Administration which said, in serving the millions of America's veterans, drug companies had to give a discount to the Veterans' Administration on the drugs that were provided, and the drug companies did—a discount of 40 to 50 percent. This isn't radical or innovative. It is a fact. This is what is happening.

We believe using the same logic and the same Government effort to bring competition and lower costs under my amendment will mean that drug costs will start coming down and this program will go a lot further in helping seniors. And once the drug costs start coming down, let me tell you what we can do: This bill does not guarantee a monthly premium for prescription drug benefits. It suggests $35 a month. But I think the sponsors will tell you, there is no guarantee that it won't be $50 or $75 a month for this prescription drug program being offered by HMOs and private insurance companies under the Grassley-Baucus bill.

Under MediSAVE, which is my alternative plan, we mandate a $35-a-month maximum monthly premium. Second, there is a $275 deductible before anybody can get the first dollar in Government benefits under the Grassley-Baucus bill. Under the amendment I will offer, there is no deductible. Third, under the Grassley-Baucus bill, they will pay 50 percent of the cost of prescription drugs after the deductible is applied. Under the MediSAVE Program, which I am going to introduce, it is 70 percent.

How can I offer all this? How can I offer a program that has no gap in coverage so that it continues to cover you right up to a $5,000 annual cost in drugs and then you switch over to catastrophic coverage? How can I do all this? Because I go after the price of the drugs. The underlying bill doesn't touch the cost of drugs. As a result, $400 billion, as large a sum as that may sound, does not go very far. When we bring in cost containment, we can offer a real prescription drug program.

And there is one more thing. The amendment I will offer will allow Medicare itself to compete with the private insurance companies. I have listened carefully to the debate for the last week or so. I can tell you that most of my Republican friends are loathe to concede the obvious. There is no private insurance company that can effectively compete with Medicare when it comes to offering prescription drug benefits. Why? Because Medicare doesn't have a profit motive. Medicare has a low overhead. Medicare can bargain on behalf of millions of seniors to get a formulary or a list of drugs at discount prices.

These private insurance companies cannot do any of those things. They are out for the profit. They have high administrative costs, and they won't have the power to bargain down the price of the cost of the drugs. So by putting Medicare in the mix, saying every senior can always turn to the Medicare prescription drug program, we have real choice and real competition and a real scare for the Republicans who believe that competition only involves private insurance companies. They don't want a Government agency competing with them.

The amendment I will offer tomorrow has been endorsed by a number of my colleagues on this side of the aisle, as well as the AFL-CIO, the United Auto Workers, a variety of unions across the United States, as well as senior citizens organizations. They understand this is a real prescription drug benefit program that tries to keep the costs

under control and makes sure we maximize the benefits to seniors across the United States.

It will be interesting to note the vote tomorrow. I believe there have been clear indications that many people here are not going to do anything to ruffle the feathers of the drug companies and pharmaceutical lobby. I hope they will keep in mind that the senior citizens they represent understand full well that these drug companies are the most profitable companies in America.

They can bring down costs. They have done it in Canada and in other countries. They can still make enough profit to reward shareholders for their risk and have money left to invest in research. I hope this MediSAVE amendment will have the positive response of my colleagues tomorrow when it is offered on the floor.

I am prepared to yield the floor at this time, and 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. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003—Continued

Mr. FRIST. Mr. President, as we bring this very busy day to a close, I wish to reflect on where we are with this very historic bill that will provide prescription drugs and, at the same time, strengthen and improve Medicare for our seniors and individuals with disabilities.

It is a historic week in many ways, but primarily because we will accomplish something that many thought would be impossible even a couple of months ago that will benefit America's seniors; historic because during this week, both Houses will likely pass the first major reform of Medicare in the almost 40 years of that program's existence.

Thanks to the strong leadership of President Bush, as well as the bipartisan support of this body, I am optimistic that by the end of this week, we will have added a $400 billion prescription drug benefit for our deserving seniors for their health care security. And indeed, it has been a long time in coming. A lot of us have talked about it, have known we should move in that direction, and now after a lot of participation we will be able to deliver on that for which we have all worked so hard. Both parties have promised action in the past. America's seniors have demanded it. Indeed, America's seniors deserve it.

As part of this current legislation, not a lot has been said on this particular aspect of it, so I do want to mention it. Within 8 months or 9 months after the President signs the final product of our discussions, when he signs this bill, seniors will have access to a prescription drug card that will provide immediate savings for them. This is an important interim move that allows us to say to seniors: Help is, indeed, on the way.

During this period of time of a year and a half or a couple years while they have that prescription drug card, we will be constructing the appropriate infrastructure to provide that prescription drug benefit for that population that wishes to stay in traditional Medicare or that population that wishes to take advantage of a new, transformed type of Medicare that will allow continuous, ongoing quality care in a more seamless fashion, a fashion that will involve preventive medicine and chronic disease management, as well as prescription drugs.

The great aspect about what we are doing, at the same time we are offering this new benefit of prescription drugs, which our seniors deserve, is that we are modernizing the Medicare Program, strengthening it, improving it in a way that can be sustained long term, and hopefully there will even be some cost savings in the future, but at the same time I am absolutely positively sure that the quality of care will be better. I say that because of this focus on preventive medicine, chronic disease management, and overall disease management which is simply not provided in traditional Medicare.

I wish to list a couple of principles.

First, individual choice versus a one-size-fits-all system. Seniors, for the first time, will be given an opportunity to choose the health care coverage which will best meet their individual needs. It is very different from the one-size-fits-all type program that is provided today.

Second, private sector competition versus Government price setting. Private insurers—I mention private insurers and private plans because we hear a lot today from certain think tanks that not very much is new in this bill. There is not very much reform, there is not very much modernization.

My simple response to them is, yes, there is a new entitlement in terms of this drug benefit, but it is going to be delivered 100 percent through the private sector, through private plans. Yes, regulated by Government, but the entities, the mechanisms of delivering these prescription drugs, whether it is in a freestanding plan or part of the traditional Medicare+Choice or part of a new PPO system, are 100 percent competitively bid with market-based principles.

That allows us to step back and say: Yes, there is something new that over the long haul, if carried out well, if appropriately structured, will allow seniors to have better value, a higher quality of care for the same input, the same amount of money that is spent.

So this market-based competition is important and, I would argue, is very important to the long-term sustainability of the program because of this huge demographic shift of the doubling of the number of seniors.

Third, innovation versus bureaucratic delays. The participation of private health plans in Medicare will help ensure up-to-date coverage. Because Medicare is so rigid, it takes a long time for Medicare to incorporate innovation, new technology, new and better ways of doing things. When you have Government bureaucrats making the decisions or politicians or political figures deciding what is covered and what is not, it simply takes a longer time than occurs in the more responsive private sector.

Four, long-term savings versus spiraling costs. There is a lot of debate in this Chamber, but I would argue, consistent with what the Medicare actuaries tell us, that the most efficient private plans today have the potential for beating Medicare costs by as much as 2.3 percent. Compounded over time, that can result in significant cost savings to the program. Thus, for the same input of dollars, you will have better output, better care delivered, and better quality of care.

The final point I will close with is regulatory relief versus the redtape of bureaucracy that is so characteristic of our Medicare system today. In this bill, there are several rulemaking and regulatory relief changes for health care providers that will allow them to focus on what they should be doing; that is, providing that clinical care, that patient care, instead of filling out paperwork or spending a lot of time on redtape activity.

A recent study by Price Waterhouse estimated that for every hour in the emergency room, there are about 30 minutes of paperwork required by emergency personnel. There is just no reason for that today, and this bill helps address that regulatory relief.

So a new benefit, individual choice, market-based competition, rapid assimilation of new technology, as well as new medicines, long-term savings, relief from this red tape, health security for seniors, that is what this bill is all about.

VOTE EXPLANATION

Mr. BROWNBACK. Mr. President, I regret that due to a previously scheduled White House event celebrating Black Music History Month, I was unable to cast a vote on Amendment No. 1002 offered by my friend, Mr. LAUTENBERG. I would like the RECORD to reflect that had I been present, I would have voted against the amendment.

Mr. JOHNSON. Mr. President, as we move forward with debate on Medicare prescription drugs, it is important to recognize that this bill does very little to address the unrestrained costs of prescription drugs. I find it disconcerting that as we are discussing one of the most major public program expansions of all time, we have neglected to have a real discussion about how to ensure that taxpayers get the

most bang for their buck in this program, and that seniors who will have significant cost sharing responsibilities have as minimal a burden as possible.

For many years, I have been a strong advocate for implementing reforms to reduce prescription drug costs for consumers in this country. I believe one way to do that is through increasing consumers' access to approved, safe and affordable generic prescription drugs. Last week the Senate passed an amendment that would accomplish this very goal. I was pleased to see that the Gregg-Schumer-McCain-Kennedy amendment passed the Senate with wide bipartisan support and I want to thank my colleagues for their dedication and hard work on this issue. This represents one encouraging step towards leveling the playing field and ensuring that prescription drug costs under this program are indeed reasonable.

The generics amendment, which I have cosponsored along with many of my colleagues will allow generic drug companies to compete with brand-name manufactures by clearing the major obstacles that delay generic drug approval. The act levels the playing field for generic drug makers to better compete against large, brand-name manufacturers, and it represents a bold step in putting consumer health and savings first. The legislation seeks to bolster the Hatch-Waxman Act passed in 1984, which promoted the growth of the generic drug industry. Loopholes in the patent laws, which benefited brand-name drug manufacturers, prohibited the bill from ever realizing its full potential.

Efforts to promote the value of generic drugs are competing with some powerful forces, such as direct-to-consumer advertising and the unwillingness of many doctors to prescribe generic drugs more regularly. However, I believe this amendment, along with greater public education efforts directed at consumers and doctors about the effectiveness of safe and approved generic drugs, will go a long way towards improving greater access and utilization of generic prescription drugs.

I will continue to fight for lower prescription drug costs and will oppose any efforts that would deny generic drugs equal access into the market. With the enactment of this amendment, we are one major step closer to achieving this goal and I hope the House will follow suit and make similar provisions a part of shier Medicare prescription drug legislation. Passage of the generics amendment paved the way, but we must not stop here. We must continue the discussion and debate on the cost containment of prescription drugs under this program and I urge my colleagues to support all amendments that work towards that goal.

Mr. SMITH. Mr. President, I would like to join my distinguished colleague from Iowa as a cosponsor of the ''Money Follows the Person Amendment'' to the Prescription Drug and Medicare Improvement Act of 2003.

This amendment would authorize the 2004 ''Money Follows the Person'' initiative in Medicaid, a part of the President's New Freedom Initiative to integrate people with disabilities into the communities where they live.

This amendment would create a 5-year program to help States move people with disabilities out of institutional settings and into their communities. For example, under this legislation, Oregon's effort to help an individual move out of an institutional care facility and into a community home would be 100 percent federally funded for 1 year. After that first year, the Federal Government would pay its usual rate. Under the provisions of this amendment, States like Oregon can take advantage of $350 million dollars of Federal assistance for 5 years for a total of $1.75 billion.

This amendment is important to the disabled community for several reasons. First, by supporting States' efforts to help Americans who have been needlessly placed in institutional settings move into community settings, this amendment will help States increase access to home and community-based support for people with disabilities.

Second, by assisting the movement of people who are not best served by an institution into a community care facility, this amendment gives them the freedom to make choices. Too often, Americans with disabilities are unable to take advantage of opportunities others take for granted—to choose where they want to live, when to visit family and friends, and to be active members of their communities.

Finally, this amendment would help States comply with the Americans with Disabilities Act. As my colleagues in the Senate are well aware, we are nearing the 13th anniversary of the Americans with Disabilities Act and of the Olmstead Supreme Court decision. That decision ruled that needless institutionalization of Americans with disabilities constitutes discrimination under the Americans with Disabilities Act.

I urge my colleagues on both sides of the aisle to support this important amendment and to support the freedom of choice for Americans with disabilities.

AMENDMENT NO. 974

Mr. LEAHY. Mr. President, last November, the Drug Competition Act passed the Senate by unanimous consent. This morning, I am proud to join Senator GRASSLEY, along with Senators CANTWELL, DURBIN, FEINGOLD, KOHL, and SCHUMER in offering our bill as an amendment to the Prescription Drug and Medicare Improvement Act of 2003, S. 1, I hope that in this Congress it is actually enacted into law as part of the larger effort to improve the health care of millions of Americans. Prescription drug prices are rapidly increasing, and are a source of considerable concern to many Americans, especially senior citizens and families. Generic drug prices can be as much as 80 percent lower than the comparable brand-name version.

While the Drug Competition Act is small in terms of length, it is large in terms of impact. It will ensure that law enforcement agencies can take quick and decisive action against companies that are driven more by greed than by good sense. It gives the Federal Trade Commission and the Justice Department access to information about secret deals between drug companies that keep generic drugs off the market. This is a practice that hurts American families, particularly senior citizens, by denying them access to low-cost generic drugs, and further inflating medical costs.

Last fall, the Federal Trade Commission released a comprehensive report on barriers to the entry of generic drugs into the pharmaceutical marketplace. The FTC had two recommendations to improve the current situation and to close the loopholes in the law that allow drug manufacturers to manipulate the timing of generics' introduction to the market. One of those recommendations was simply to enact our bill, as the most effective solution to the problem of ''sweetheart'' deals between brand name and generic drug manufacturers that keep generic drugs off the market, thus depriving consumers of the benefits of quality drugs at lower prices. Indeed, at a hearing just yesterday in the Judiciary Committee, Chairman Timothy Muris of the FTC praised the Drug Competition Act in his testimony, and urged its passage. In short, this bill enjoys the unqualified endorsement of the current FTC, which follows on the support by the Clinton administration's FTC during the initial stages of our formulation of this bill. We can all have every confidence in the common sense approach that our bill takes to ensuring that our law enforcement agencies have the information they need to take quick action, if necessary, to protect consumers from drug companies that abuse the law.

Under current law, the first generic manufacturer that gets permission to sell a generic drug before the patent on the brand-name drug expires enjoys protection from competition for 180 days—a head start on other generic companies. That was a good idea—but the unfortunate loophole exploited by a few is that secret deals can be made that allow the manufacturer of the generic drug to claim the 180-day grace period—to block other generic drugs from entering the market—while, at the same time, getting paid by the brand-name manufacturer not to sell the generic drug.

Our legislation closes this loophole for those who want to cheat the public but keeps the system the same for companies engaged in true competition. I think it is important for Congress not to overreact and throw out

the good with the bad. Most generic companies want to take advantage of this 180-day provision and deliver quality generic drugs at much lower costs for consumers. We should not eliminate the incentive for them. Instead, we should let the FTC and Justice look at every deal that could lead to abuse, so that only the deals that are consistent with the intent of that law will be allowed to stand. The Drug Competition Act accomplishes precisely that goal, and helps ensure effective and timely access to generic pharmaceuticals that can lower the cost of prescription drugs for seniors, for families, and for all of us.

The effects of this amendment will only benefit the effort to bring quality health care at lower costs to more of our citizens. The Drug Competition Act enjoyed the unqualified support of the Senate last year, and I hope my colleagues will recognize that it fits well within the framework of the Prescription Drug and Medicare Improvement Act of 2003. It will do nothing to disrupt the balance struck in the larger bill, while aiding the ultimate goal of that legislation. I urge all Senators to embrace this effort on behalf of Medicare recipients, and of all Americans.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MAYNARD JACKSON

Mr. MILLER. Mr. President, I rise this evening to pay tribute to one of Georgia's finest, one of this Nation's finest. I pay tribute to the life and legacy of former mayor of Atlanta, Maynard Jackson. In a city known for its great civil rights leaders, Maynard Jackson was truly one of the greatest. The people of Atlanta and Georgia have lost one of our strongest and most articulate fighters. Indeed, the State of Georgia tonight is mourning the passing of one of our greatest citizens.

Maynard Jackson was such a positive presence in all that has happened in Atlanta and in Georgia over the past 30 years that I simply cannot imagine what our city and our State would be like if he had not come our way.

His impact stretched far beyond the red clay hills of Georgia. He touched the lives of many people all around this world. For me, Maynard Jackson was a good friend, a friend whose counsel I always sought because I knew he would give it to me straight. In Atlanta the City Hall and the State Capitol are right across the street from each other. He and I crossed that street to talk on many occasions.

Maynard's rise to prominence began at an early age. As a child prodigy he entered Morehouse College at age 14. He graduated in 1956 with a bachelor's degree of political science and history. In 1964 he graduated from North Carolina Central University Law School. Maynard then returned to Atlanta as an attorney for the National Labor Relations Board followed by a time at the Emory Community Legal Services Center where he provided legal counsel for low-income Atlantans.

He ran for the Senate in 1968 and lost. But we all knew at that time the world would come to know the voice of this very remarkable, articulate, and passionate young man. In 1973, at the age of 35, he became mayor of Atlanta after winning nearly 60 percent of the vote in a runoff against incumbent mayor Sam Massell. This great-grandson of slaves served 12 years as mayor of the South's largest city. His tenure saw the construction of what would become the world's busiest airport, Hartsfield International.

He was a fierce advocate for those who thought they were forgotten. He became their voice. In him, they found a great fighter.

The New York Times wrote of Maynard's tenure as mayor it created ''a political revolution in the heart of the South. Seemingly overnight, it transformed Atlanta into a mecca for talented, aspiring blacks from all across the country.''

The Washington Post described Maynard's impact this way:

> African Americans around the country looked at Jackson's win . . . and saw even greater possibilities. If they did it in Atlanta in the heart of the Confederacy, they could do it at home, too . . .

Vernon Jordan, himself a native of Atlanta, said his most dramatic awareness the South had changed and the city of Atlanta had changed was the day Maynard took the oath of office as mayor of Atlanta. Vernon said it was an unforgettable moment.

As the angels now sing the praises of Maynard Jackson on the other side of that river, I join the chorus of those who yet remain in glorious song to this glorious individual, his life and legacy truly an example for all of us. And he will not be forgotten anytime soon.

HONORING THE STUDENTS OF EUREKA, SOUTH DAKOTA

Mr. DASCHLE. Mr. President, I rise today to recognize an outstanding achievement of the town of Eureka, SD. Eureka has the honor of being the only South Dakota town where three students have won the National Discover Card Tribute Award Scholarship.

The Discover Card Tribute Award Scholarship is awarded each year to 9 outstanding high school juniors in each state and the District of Columbia. These students are selected based on their leadership skills, special talents, personal obstacles, and commitment to community service.

In South Dakota, the state winners for 2003 hail from such cities as Aberdeen, Brookings, Eureka, Milbank, Presho, Salem, Sioux Falls, and Sturgis. Out of these winners, the top three students are selected to compete with students from across the country for 9 national-level scholarships, and it is in this category that the town of Eureka has excelled.

Since the award was first created 12 years ago, only 4 South Dakotans have won at the national level, beginning with Lori Heilman Leidholt of Bowdle, South Dakota, in 1994. The other 3 come from Eureka.

Sarah Anderson won her scholarship in 2000. Sarah is an award-winning photographer and a tireless advocate for diabetes education. Her renowned kitten calendars sell throughout the state and help raise funds for the Juvenile Diabetes Foundation.

As a diabetic herself, she is able to draw from her own experiences as she speaks with adults and children across South Dakota about the disease. In 1999, she successfully lobbied the South Dakota Legislature to enact legislation expanding health insurance coverage for diabetic supplies and equipment.

Loni Schumacher was next in 2002. A member of her local chapter of Family, Career and Community Leaders of America, she was selected to visit Japan in 2001 on a 6-week exchange.

An only child, she has since adopted ''sisters'' from across the globe. Experiencing a new culture broadened her view of the world, and she has brought those ideals back home to Eureka where she and her family have opened their family farm to exchange students from Brazil and Germany.

Loni has also been closely involved in her school's ''Teens Against Tobacco Use'' organization, and teaches elementary school students about the hazards of tobacco use.

Amanda Imberi is Eureka's winner for 2003. I had the honor of meeting this young woman when I visited Eureka several weeks ago. Just last week, here in Washington, I presented her with the 2003 Tradition of Caring Jefferson Award.

At the age of 9, Amanda lost her mother to cancer. She had to grow up faster than any child should.

Even with all of her schoolwork, cooking, and managing the family's finances, she has still found the time to be active with the American Cancer Society, speaking at rallies across the state on the importance of cancer awareness and prevention, as well as producing a variety show style fundraiser at her high school.

Two more Eureka students have won the scholarship at the state level—John Ostrowski in 1997 and Alisha Lutz in 1998. For a town of approximately 1,200 people, that is a remarkable achievement. It is not only an indication of the desire to succeed shared by these students, it is also a testament to the quality of teachers and schools that produced such outstanding young adults.

I don't know what they are putting in the water in Eureka but, whatever it is, I hope they continue. These young

people are an inspiration to their communities and their fellow students. They have proven there is no obstacle you cannot overcome, and that you should always pursue your dreams.

I commend them and the entire town of Eureka for their achievement, and hope to see even more Discover Card Tribute Award winners from South Dakota in the future.

RECOGNIZING COURTNEY STADD

Mr. STEVENS. Mr. President, I would like to a moment of the Senate's time to recognize someone who has served our Nation with great dignity, humility and energy. For more than two decades, Mr. Courtney Stadd has worked tirelessly to secure America's future in technology, aeronautics, and space. His leadership as a team builder, policymaker, entrepreneur, and senor administration official are evidenced around this city, our Nation and in the horizons that surround the Earth.

In my home State of Alaska, Mr. Stadd helped guide the construction of Kenai and the Alaskan Spaceport Authority. As a board member, he played a critical role in enabling America's newest spaceport to serve the well-being of commercial, public sector, and military interests.

As a member of the Reagan and Bush administrations he was an active voice and proponent for creating commercial markets in geospatial imagery, launch services, information technology and other critical sectors that will advance America's economic far into the 21st century.

In his service to this President, Mr. Stadd led the transition team for NASA and ultimately assumed the role of National Aeronautics and Space Administration, NASA, Chief of Staff/White House Liaison. In this role, he served then administrator, Mr. Dan Goldin—working to support missions and nationwide personnel through the September 11th attacks and anthrax threat, which struck NASA Headquarters, just blocks away from this very body. He served Administrator Goldin until the end of his tenure in November 2001 and provided for a smooth and orderly transition for NASA's current administrator, my friend, Mr. Sean O'Keefe.

During his transition into NASA, Administrator O'Keefe found a valued partner and ally to support his vision and charge for fundamental management and financial reform within the agency. He asked Courtney to lead the Freedom to Manage Initiative, which focused on empowering NASA's extraordinary workforce to identify policies and regulations that impeded performance. The administrator also took advantage of Stadd's distinguished commercial background and asked for his assistance in restructuring NASA's accounting systems and management strategies. Both efforts have put NASA on solid ground and will enable the agency that revealed the secrets of the heavens to once again soar without abandon.

His service to this administrator and its workforce know no boundary and for that reason, Mr. O'Keefe called upon Courtney's talents and energies for support during the Columbia accident and its subsequent investigation. His care for the crew, their families, and the entire NASA workforce truly distinguished itself during some very challenging days.

As my words have chronicled, Courtney Stadd has been a faithful and valuable colleague for Administrator O'Keefe and the NASA workforce to depend upon. He has been a model to his peers and colleagues at NASA, the aerospace community and throughout the administration of integrity and poise in service to the American public. We are blessed in a Nation as bountiful as this one to have people such as him who take upon the cloak of public service and perform so admirably.

In the coming days, Mr. Stadd will be departing from his position at NASA to return to private life. As he leaves public service, the Members of this body and administration should pause to recognize him for his distinguished service. He has contributed much in his distinguished career to better America and I am greatful to honor him today.

I wish him well in all of his endeavors.

SUPREME COURT DECISION IN MICHIGAN

Mr. DURBIN. Mr. President, I rise in praise of yesterday's Supreme Court decision in the Michigan case—the most important affirmative action case in a generation. I along with 11 of my colleagues—Senators DASCHLE, KENNEDY, CLINTON, CORZINE, EDWARDS, FEINGOLD, KERRY, LANDRIEU, LAUTENBERG, SCHUMER, and STABENOW—filed an amicus brief in support of the university's affirmative action programs.

I am disappointed that the Court struck down the undergraduate admissions program, but I believe that the opinion upholding the law school program represents a significant victory for affirmative action and for America.

The Court's decision reaffirms the compelling interest in racial and ethnic diversity—universities may continue to include race as one factor among many when selecting its students. Diversity programs promote the integration and full participation of all groups in our society. The core holding of Grutter v. Bollinger, the law school case, and Gratz v. Bollinger, the undergraduate case, boils down to this: universities must look at each applicant individually.

Michigan Law School's program was upheld because the law school performs an individualized consideration of every applicant. Race is considered, but not in a mechanical manner. The University of Michigan's undergraduate program was struck down because the Court said its point system was too rigid and too mechanical. The bottom line is that university affirmative action—when done right—is alive and well in America. Not surprisingly, the law school opinion was 5–4 and, not surprisingly, Justice O'Connor was the swing vote. She has been the crucial swing vote in so many important Supreme Court cases over the past 20 years that she is now routinely referred to as ''the most powerful jurist in America,'' and indeed, as ''the most powerful woman in America.'' Both descriptions may well be true.

I would like to briefly discuss what I think are the three most important aspects of yesterday's decision.

First, the Court set out a clear roadmap for affirmative action. The question is no longer whether race can be used to further diversity, but how it can be used. The majority of universities are already practicing affirmative action the right way. As discussed in today's Washington Post, most universities currently have admissions programs that are similar to Michigan Law School's. And for those that don't, a quick fix would be to go out and hire more admissions officers. Many universities have large endowments, so I am confident they have the ability to hire a few more staff. As a result, they will be able to conduct the flexible, individualized analysis that the Court now demands.

I personally agree with Justice Souter's dissent in the undergraduate case—their point system is a far cry from the quota system that was struck down in Bakke. Underrepresented minorities automatically get 20 points out of a possible 150, but so do athletes, low-income applicants, and those who attended disadvantaged high schools. To me, this type of point system does not seem unconstitutional.

But in any event, universities now have clear guidance. I think Justice Scalia will be proven wrong in his dire prediction that the Michigan decisions will lead to an avalanche of new affirmative action litigation.

Another important aspect of yesterday's decision is that it recognizes the value of diversity not only on campus, but for other critical areas of our society as well. Eliminating affirmative action in universities would have harmful ripple effects for the nation.

For universities, the Court noted that ''classroom discussion is livelier, more spirited, and simply more enlightening and interesting'' when the students have ''the greatest possible variety of backgrounds.''

For society at large, diversity has even more tangible benefits. Citing to an amicus brief filed by a large number of Fortune 500 companies, Justice O'Connor wrote that ''American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.''

Referencing an amicus brief filed by dozens of retired U.S. military leaders—including Generals Norman Schwarzkopf, John Shalikashvili, Hugh Shelton, Anthony Zinni, and Wesley Clark—the Court wrote that ''high-ranking retired officers and civilian leaders of the United States military assert that, 'based on their decades of experience,' a 'highly qualified, racially diverse officer corps . . . is essential to the military's ability to fulfill its principle mission to provide national security' ''.

In addition, the Court brought the issue of diversity close to home. Noting that law schools represent ''the training ground or a large number of our Nation's leaders,'' the Court observed that individuals with law degrees occupy more than half the seats in the United States Senate (59), a third of the seats in the House of Representatives (161), and roughly half the state governorships.

A third important aspect of yesterday's decision is the rejection of the Bush Administration's position that both Michigan programs were unconstitutional and should be struck down. It gives you an idea of how conservative the Bush Administration is. Even this Supreme Court—in which 7 of 9 members were appointed by Republican Presidents—rejected its arguments.

Contrary to the misleading assertions of President Bush and other opponents of affirmative action, the Court held that Michigan Law School's policy of seeking a ''critical mass'' of minority students did not as a de facto quota.

Between 1993 and 2000, the number of African Americans, Native Americans, and Latinos in each class varied from 13% to 20%. As the Court noted, diminishing stereotypes about ''minority viewpoints'' is ''a crucial part of the Law School's mission, and one that it cannot accomplish with only token numbers of minority students.''

The Court also rejected the Bush Administration's position that you could attain diversity through race-neutral means, such as the ''percentage plans'' in Texas, Florida, and California, which guarantee admission to all student about a certain class-rank threshold in every high school in the state.

The Court rejected this argument for two main reasons: 1, percentage plans don't work for graduate and professional schools, and 2, they are, ironically, even more mechanical and inflexible than the Michigan undergraduate program.

The Court shot down another central argument of the Bush Administration—that affirmative action programs were invalid unless they had a definitive end date. As Justice O'Connor observed: ''It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. Since that time, the number of minority applicants with high grades and test scores has indeed increased. We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.''

I hope that Justice O'Connor is right.

The Michigan case is yet another reminder of the fragile balance on the Supreme Court, and how high the stakes will be if a Justice retires.

If there were a switch of a single Justice in yesterday's case, things would be dramatically different today. If there had been a fifth vote to end race-conscious affirmative action in America's universities, we would face a sudden reduction in minority students on our Nation's college campuses, especially at the elite ones.

The dean of Georgetown Law School—my alma mater—speculated yesterday that if the decision had gone the other way, Georgetown's minority enrollment would have been cut in half.

America cannot afford to turn back the clock on opportunity for all of our citzens and—by a 5–4 margin—the Supreme Court agrees.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on October 8, 2001. In Hyannis, MA, a 31-year-old man attacked two convenience store clerks from Pakistan. The suspect walked into the store, approached the two clerks and asked them if they were from Pakistan. The two men responded affirmatively, which further enraged the suspect. The perpetrator began cursing and accusing the pair for ''almost killing'' his family and attacking the United States. One of the clerks attempted to calm the man down and led him outside. Once outside, the man punched the clerk, sending him to the ground. The attacker proceeded to kick him until the second clerk rushed outside to halt the attack. The man was later arrested by police.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VIOLENCE AGAINST WOMEN OFFICE

Mr. BIDEN. Mr. President, I rise to speak today to mark several important developments in our Nation's fight to end domestic violence, sexual assault, and stalking. First, I recently had the honor of addressing domestic violence advocates from across the country who have convened in Washington, DC, to attend the annual meeting of the National Network to End Domestic Violence. These are the women and men on the front lines, transforming the Violence Against Women Act from words on a piece of paper into real solutions for battered women and children.

These advocates witness the terrible toll of family violence. They, in essence, know the statistics by heart. Statistics like 20 percent of all nonfatal violence against females over 12 years of age were committed by intimate partners, according to government statistics released in February 2003. Or the statistics that tell us that in 2000 alone, 1,247 women were killed by an intimate partner. These advocates experience what the studies confirm; that is, in almost half of the households with domestic violence, there are children under the age of 12.

In the face of such daunting numbers, I was pleased to tell these advocates that our fight for an independent and separate Violence Against Women Office is over. I have been assured by Attorney General Ashcroft that his department will comply with the directive for an independent office that was in the law passed by the Congress last session. I want to make clear that my Violence Against Women Office Act and subsequent push to ensure compliance was not a fight about office space or bureaucratic in-fighting. I introduced this legislation because I know that a separate office means that the office's leadership and agenda cannot be marginalized or pushed to a back office. A separate office means that violence against women issues stay at the forefront and that its director appointed by the President and confirmed by the Senate will have an office with the stature and status to use it as the bully pulpit on domestic violence issues that I intended when I authored the Violence Against Women Act.

Nor is the independent office simply a Joe Biden issue. The Violence Against Women Office Act was voted on favorably—with no objections—in the Senate Judiciary Committee. The act passed unanimously in the Senate and passed overwhelmingly in the House. The mandate for freestanding Violence Against Women Office is Congress' law, not a whim.

Despite the law's clear language and intent, the Department of Justice formally announced in February 2003 that it ''interpreted'' the new law to permit the office to remain as a part of the Office of Justice Program, the arm of the Justice Department which handles grant making, rather than implementing significant policy decisions. I vigorously protested this ''interpretation,'' informing the Justice Department that it was inconsistent with both the plain letter of the law, as well as congressional intent. In fact, I personally called Attorney General

Ashcroft on February 13 to discuss this issue and to urge him to reconsider the Department's position.

On March 24, the Attorney General called to inform me that he had personally reviewed this issue and that he was reversing the Department's February decision. More specifically, he pledged to me that the Office would be moved outside of the Office of Justice Programs to become an independent and distinct office, as called for by the law. He also pledged that the Director of the Office would have a direct line of report to him, and not be required to report through the Assistant Attorney General for the Office of Justice Programs, as the Department had previously required. I am grateful that Attorney General Ashcroft took the time to turn his full attention to this matter, to examine the law and legislative history, and to ensure that his Department correctly implemented the act. I commend the Attorney General for doing ''the right thing'' with respect to the office.

The strength and stature of the Violence Against Women Office will be matched by the strength and stature of its director, Diane Stuart. Pursuant to the new law that requires Senate confirmation, Ms. Stuart testified before the Judiciary Committee earlier this month, and the committee will vote on her nomination on Thursday. Ms. Stuart has been acting director of the office for almost 2 years, and during that time has done terrific work. I am particularly impressed with the extraordinary outreach Ms. Stuart has done thus far, meeting with law enforcement, prosecutors, and service providers from Montgomery County, MD, to Portland, OR. She is truly an expert in the areas of domestic violence, sexual assault, and stalking, and I look forward to working with her as we fight to end family violence in our communities.

REACH-BACK TAX

Mr. COCHRAN. Mr. President, I am concerned about an unfair tax on coal companies and other businesses which is sometimes referred to as the ''reach-back tax.'' It was enacted as part of the Coal Act in the 1992 Energy bill. The Coal Act requires companies to pay a tax on the retirement benefits of miners. The tax applies not only to companies active in the coal mining business but also to companies that are no longer in the coal mining business.

There is one company in the State of Washington that has not employed any miners since the 1950s and is still obligated to pay. Another company that is subject to the tax is the Mississippi Lignite Mining Company, which operates a powerplant at Red Hills near Ackerman, MS. It is time for the Congress to repeal this unfair tax.

If we do not act soon, the combined benefit fund, which provides the money for the retirement benefits, will be bankrupt. I understand that the distinguished chairman of the Senate Finance Committee, Mr. GRASSLEY, and the Senator from Oregon, Mr. SMITH, have asked the House Ways and Means Committee to send a bill to the Senate to resolve this issue. I join them in this request and hope the Finance Committee will act with favor on such a bill when it comes over from the House.

NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE ACT

Mr. KENNEDY. Mr. President, I strongly support S. 1157, the National Museum of African American History and Culture Act. The story of African Americans is a major part of the story of the United States. From the dark times of slavery, civil war, and reconstruction, to the extraordinary accomplishments of the civil rights movement of the past half century, it is essential for all Americans to know and understand that story in all its aspects, and this new museum in the Nation's Capital will be an especially valuable resource in achieving that goal. It will be a valuable cultural and educational experience for every visitor to Washington and for every student of American history in communities across the country.

Our Nation was founded on a promise of equality and opportunity for all, and for more than two centuries, we have struggled to fulfill that great promise. The struggle goes on today, on critical issues, such as guaranteeing that all our citizens are free from hate crimes and racial profiling, and are free to go to the polls and vote without intimidation or attempts to suppress their votes.

We know that civil rights is still the great unfinished business of America. As Robert Kennedy told the students at the University of Cape Town, at a time when the specter of apartheid hung heavily over South Africa:

> We must recognize the full human equality of all our people—before God, before the law, and in the councils of governments. We must do this, not because it is economically advantageous—although it is; not because the laws of God and man command it—although they do command it; not because people in other lands wish it to. We must do it for the single and fundamental reason that it is the right thing to do.

It is especially appropriate that this new museum dedicated to African-American history and culture will be part of the Smithsonian Institution in Washington. It is long overdue, and this legislation will help advance the cause.

This museum will be renowned as a source of African-American history throughout the United States. In cooperation with other museums, with historically black colleges, and with many other historical, cultural, and educational institutions, it will make this part of the Nation's history as widely available as possible. And millions of visitors who come here from throughout the world will be inspired by what they see and learn.

It is an honor to be a sponsor of this legislation, and I urge my colleagues to support it.

HONORING OUR ARMED FORCES

IN MEMORY OF STAFF SERGEANT AARON WHITE

Mr. INHOFE. Mr. President, I rise today to honor the memory of a remarkable man. SSG Aaron Dean White was an Oklahoman through and through. People say he was a hard worker, dedicated, friendly, and that he loved his family and country. Those who knew him best remembered him as being always willing to help others. He even served alongside his father as a volunteer firefighter for the town of Sasakwa, OK. A former resident of both Sasakwa and Shawnee, OK, he graduated from Shawnee High School in 1994. He entered the U.S. Marine Corps shortly thereafter, gladly serving his Nation for 9 years, and eventually moving up to the position of crew chief on a CH–46 Sea Knight Helicopter.

Staff Sergeant White was passionate about his job—excited to serve—proud to be a marine. After being deployed to Iraq in January of 2003, he was upset because he was not as close to the action as he had hoped. A passionate lover of flying who had earned his pilot's license, he volunteered to be a gunner on a helicopter, just so he would have the opportunity to fly more often.

On Monday, May 19, Staff Sergeant White was one of four individuals on board a helicopter on a resupply mission when the chopper went down into the Shat Ahilala River in Iraq. Tragically he, along with four other marines, did not survive the incident. This courageous man who was living out his dreams lost his life while defending his country.

Staff Sergeant White's remarkable life of helping others was commemorated at his funeral ceremony in Wewoka, OK, at which friends and family filled the chapel. His many loved ones grieved, including his parents, Shawnee, OK, residents Darrell and Karen White; his wife Michele; his daughter Brianna Nicole; and his sister, Sergeant Patricia LaBar, who was serving with the U.S. Army in Germany when her brother passed into the next life. However, I know they are incredibly proud of this man—son, husband, father, and brother—lover of life and soldier of freedom. He is a man who has set a higher standard for all of us to follow. We will never forget him, SSG Aaron Dean White.

IN MEMORY OF PETTY OFFICER BOLLINGER

Mr. INHOFE. Mr. President, no one can truly put into words the magnitude of respect and admiration we feel for those who sacrifice their lives so that we might continue to live in freedom. However, I am honored today to try, since the young man whom I pay tribute to was a proud son of my home State the great State of Oklahoma.

Petty Officer 3rd Class Doyle Wayne Bollinger grew up in the community of Poteau, OK. A member of the Poteau Valley Baptist Church, he was remembered by those who knew him best as one with a generous heart—never thinking of himself, but devoting his time to the service of others.

Upon graduating from Poteau High School, Petty Officer Bollinger heard the call to serve his country. He joined the United States Navy, becoming a member of the Naval Mobile Construction Battalion 133, based in Gulfport, MS. In January of 2003, he and his fellow patriots were sent to Iraq, and possibly into harm's way.

On Friday, June 6, 2003 Petty Officer Bollinger was with his battalion, repairing a bridge across the Tigris River in Iraq. He was tragically killed when unexploded ordnance accidentally detonated nearby. At the age of 21 this man lost his life so that we might stand here today, without fear, and in freedom.

I cannot fully describe to you the pain in the hearts of his loved ones as they sat at his funeral on the grounds of Poteau High School, where they had watched him graduate only a few years earlier. Our thoughts and prayers are with them now. And though we are all grieved at the loss of this man, we shall never cease to be proud of him—Oklahoma's son—Petty Officer 3rd Class Doyle Wayne Bollinger.

IN MEMORY OF PRIVATE FIRST CLASS JEROD R. DENNIS

Mr. INHOFE. Mr. President, I rise today to honor the memory of a man who, at such a young age, displayed the courage and valor of a true American hero. Private First Class Jerod R. Dennis was a proud son of the great State of Oklahoma, growing up in the community of Antlers. Remembered as being energetic, outgoing, and humorous, he graduated in 2002 from Antlers High School, where he was a standout tennis player, twice making it to the State championships.

Even before the attacks on America on 9/11, PVT Dennis knew that he wanted to dedicate himself to service in the United States Army. He enlisted prior to his graduation from high school, and arrived in boot camp merely 3 weeks after receiving his diploma. His parents, Jerry and Jane Dennis of Antlers, realized that their son was proud to be answering the call to serve his country. Despite their worry for his safety, they sent with him their support and love as he was assigned to the 3rd Battalion, 504th Parachute Infantry Regiment based out of Fort Bragg, NC.

As a part of the U.S. effort to stamp out the threat of terrorism, PVT Dennis, now an Army sharpshooter, along with the rest of his regiment, was sent to fight in Afghanistan. On April 25, 2003, PVT Dennis was on patrol in eastern Afghanistan with other soldiers when they drove into an ambush. A firefight with rebel fighters quickly followed. When his sergeant was shot, PVT Dennis made his way to a foxhole and provided cover fire as his comrades took the sergeant to safety. Tragically, PVT Dennis was mortally injured in the process.

At just 19 years of age, PVT Dennis lay dying from his wounds, worrying more about the physical condition of his fellow soldiers than his own health and well being. PVT Dennis passed on to the next life that day, but no one could deny the bravery displayed by this young man from a small town in far southeastern Oklahoma.

Hundreds gathered at the funeral for PVT Dennis, held at the First Baptist Church in Antlers. They will never forget this incredible young man who displayed such great love for his country. As Army Brigadier General Abe Turner stated so eloquently at the funeral ceremony, ''We will remember you. We will honor you, and you will always be a hero.'' He is Oklahoma's hero—Private First Class Jerod R. Dennis.

ADDITIONAL STATEMENTS

TRIBUTE TO LINCOLN COUNTY AND MESCALERO APACHE INDIAN HEROES

● Mr. DOMENICI. Mr. President, I rise today as we move toward the American Independence Day holiday to honor a group of dedicated people in Lincoln County and the Mescalero Apache Tribe of New Mexico who have launched a major project to ensure that their war dead are never forgotten.

These citizens, led by Walter Patrick Limacher of Hondo, are compiling and publishing the ''Lincoln County and Mescalero Apache Tribe Honor List.'' This list includes the names of all those from this mountainous southern New Mexico region who gave their lives defending the United States in World War I, World War II, the Korean war, and Vietnam.

As families and communities rally on July 4th to celebrate the 227th birthday of our Nation, the honor list organizers understand that our celebrations are made possible by the servicemen who came from their very own small communities and ranches to take up arms in the name of liberty and freedom.

The honor list serves to unify this region of New Mexico, equally paying tribute to those who made the ultimate sacrifice. The list reads like the history of New Mexico itself, including warriors of American Indian, Hispanic, Anglo and other descents.

The collection has been a joint effort of a great many, from tribal and county citizens and officials, to the Department of Defense. My distinguished colleague from Arizona, Senator MCCAIN, Secretary of State Colin Powell, General Norman Schwarzkopf, and former New Mexico Governor Gary Johnson have all issued citations to the list. I want to take this opportunity to thank Mr. Limacher for his dedication and tireless work.

I, too, take pride in honoring these servicemen. They are all specially honored in this record.

The Lincoln County and the Mescalero Apache Indian Tribe Honor List will be presented to surviving family members of those who served, and placed in libraries located throughout south central New Mexico so all can remember these great men. The stories of these brave servicemen from Lincoln County and the Mescalero Apache Indian Reservation are forever unfinished because of the circumstance of their deeds, but their sacrifices do not go unnoticed. The honor list will create a unique bond between future generations and the past fallen heroes.

They are all heroes who fought for their country and gave their lives for our freedom, liberty, and independence. Because of their courage we are what we are. To them and their families, and to all our men and women of our armed services past and present, I salute you this Independence holiday.●

AL BRAIMAN: DEPAUL UNIVERSITY CLASS OF 2003

● Depaul University's Class of 2003. Al was the oldest graduate of Depaul's Class of 2003 when he graduated on June 14. Al completed a degree in liberal arts at Depaul's College of New Learning with a grade point average of 3.92 out of a possible 4.0.

Born in Kiev, Russia, in 1920, Al immigrated to the United States at the age of one. His family took up residency in Chicago, where he lived most of his life. After high school, Al turned down an academic scholarship for college to support his family. Al joined the Army and served with distinction in WWII, spending most of his time on Guadalcanal.

After leaving the Army, Al owned and operated Lakeview Grocerland until the mid 1960s when he became an insurance salesman with Equitable Life Insurance Company. He became a certified life underwriter and chartered financial consultant. Al won many awards in the industry, including induction to the Equitable Hall of Fame.

After retiring in 1985, Al decided to earn a college degree, something he promised his mother earlier in his life. Al's interest in politics led him to take many political science and history courses at Depaul University. Some of his favorites included a class on American Presidents and a course on race relations. He also enjoyed learning many new things such as use of the Internet, photography, and art. Al has proven that it is never too late to learn and we could all learn a great deal from his perseverance.

I know my fellow Senators will join me in congratulating Al Braiman, Depaul Class of 2003. His story contains all the elements of a great American life and I am honored to share it with my colleagues in the Senate.●

NASHUA CELEBRATES ITS SESQUICENTENNIAL

● Mr. GREGG. Mr. President, I rise today in honor of Nashua, NH, the Gate City of New Hampshire. As the United States prepares to observe the 227th anniversary of our independence, the citizens of Nashua will be celebrating the city's sesquicentennial. It is therefore timely and appropriate that we recognize this great American community .

With its rich heritage and the continuing role it plays in New Hampshire's economic and cultural vitality, I am proud to be a native of Nashua. We cannot accurately talk about this city without praising its most distinctive asset: the people of Nashua. From its founding as the Township of Dunstable in 1673 to its incorporation as the City of Nashua in 1853 through today, they have shown a unique entrepreneurial flair, a dedication to their neighbors and the courage to often times place their own lives at risk for the well-being of our country. Their involvement in the American Revolution is one of many episodes which vividly illustrate these characteristics. The residents in what was then called Dunstable, upon hearing of the fight at Lexington, rushed to take up arms. According to historical accounts, nearly one-half of the able-bodied men in Dunstable enlisted in the Army by the time of the Battle of Bunker Hill. CAPT William Walker organized a company of 66 of these men for this battle. They were placed at the high point of the British attack. To be stationed here was actually a great honor as it reflected their fighting expertise and commitment to the cause of independence.

Since then, Nashuans have continued to serve and defend their country when our freedoms were at risk: 1,348 men served in the Civil War; 4,160 in World War Two. Nashua's airport is named after Paul Boire, a young navy pilot who died in March, 1943. Women, too, have greatly contributed to these causes, oftentimes on the front lines. Mrs. Adelaide Johnson Stevens was a volunteer nurse during the Civil War and was wounded during the assault on Fort Harrison.

In the early part of the 1800s, the community was quickly becoming a center for commerce and industry. Daniel Abbott was the man perhaps most responsible for this reputation. He, along with partners Joseph Greeley and Moses Tyler, founded the Nashua Manufacturing Company which became one of the world's preeminent manufacturers of cotton, woolen, and iron goods. Throughout the 19th century, Nashua was well known as a center for innovation. For example, the Nashua Iron and Steel Works made the stoppers for the ports in the turrets of the S.S. *Monitor*. The Rollins Engine Company made the famous steam engine which help power the economic expansion not only in New Hampshire but throughout our country. As Nashua grew, so did its reputation as a home for entrepreneurs. Royden Sanders turned Sanders Associates into one of the top defense contractors in our country. In an interesting sidenote, Ralph Baer, who worked as a manager for Sanders in the 1960s, developed the first television video game and is often called the Tom Edison of video games. Sanders is now owned by BAE Systems but continues to be a pioneer in the design, development, and manufacture of electronic systems for both military and commercial use.

What is perhaps the most distinguishing characteristic of the city's people has always been their commitment to helping their neighbors and to constantly improving the quality of life here. Nashua's history is full of stories which illustrate their dedication. On April 20, 1861, the city passed soldiers aid resolution providing one dollar per week for the wife of an enlistee and one dollar per week for each dependent child. Today, Nashua has organizations like Marguerite's Place which has done so much to turn around the lives of women and their children who have been victims of domestic violence. The city's current mayor, Bernie Streeter, has long served the public and is continuing in the honorable tradition started by Nashua's first mayor, Josephus Baldwin. My father, Hugh Gregg, has also served as mayor of Nashua and Governor of New Hampshire. It was in large part through his work that the city's economic vitality was restored after the mills moved and closed in the early 1950s.

All of these people, and their stories, demonstrate how Nashua has maintained its vitality, adapted to changing times, and continues to be a leader in so many areas. It is no wonder that the city has twice been named as the best place to live in the United States. I do not think any other community in the country can make that claim. With that, I am proud to honor and salute them as they celebrate the sesquicentennial of Nashua, NH.●

TRIBUTE TO JUDGE LEE AND HARRY FIRST

● Mr. LIEBERMAN. Mr. President, a great thinker once said that there is no more lovely, friendly, and charming relationship, communion, or company than a good marriage. Judge Lee and Harry First of Riverdale, New York, have certainly demonstrated the truth of those stirring words. For 50 years, they have set an example of commitment, faith, and values. They have been blessed with a strong and happy marriage and a loving family. I am delighted to wish our very good friends, Lee and Harry, a happy 50th wedding anniversary and a joyous celebration.●

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

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.

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.R. 658. An act to provide for the protection of investors, increase confidence in the capital markets system, and fully implement the Sarbanes-Oxley Act of 2002 by streamlining the hiring process for certain employment positions in the Securities and Exchange Commission.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2465. An act to extend for six months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 209. Concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia.

The message also announced that pursuant to 22 U.S.C. 3003 note, and the order of the House of January 8, 2003, the Speaker appoints the following Members of the House of Representatives to the Commission on Security and Cooperation in Europe: Mr. SMITH of New Jersey, acting Chairman, Mr. WOLF, of Virginia, Mr. PITTS, of Pennsylvania, Mr. ADERHOLT, of Alabama, Mrs. NORTHUP, of Kentucky, Mr. CARDIN, of Maryland, Ms. SLAUGHTER, of New York, and Mr. HASTINGS, of Florida.

MEASURE REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 209. Concurrent resolution commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia; to the Committee on Foreign Relations.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

S. 1323. A bill to extend the period for which chapter 12 of title 11, United States Code, is reenacted by 6 months.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 24, 2003, she had presented to the President of the United States the following enrolled bills:

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.

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–2842. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Fiscal Year 2003 Operator Training Grants'' received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2843. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Revisions to the Kentucky Nitrogen Oxides Budget and Allowance Trading Program'' (FRL7516–1) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2844. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans: State of Missouri'' (FRL7513–9) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2845. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Wisconsin; Revised Motor Vehicle Emissions Inventories and Motor Vehicle Emissions Budgets using MOBILE6'' (FRL7515–5) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2846. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Change of Address for Submission of Certain Reports; Technical Amendment'' (FRL7513–8) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2847. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Correction of Designation of Areas for Air Quality Planning Purposes; California—PM–10 Nonattainment Area'' (FRL7516–9) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2848. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Criteria for Classification of Solid Waste Disposal Facilities and Practices and Criteria for Municipal Solid Waste Landfills: Disposal of Residential Lead-Based Paint Waste'' (FRL7514–7) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2849. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Pollutant Discharge Elimination System—Amendment of Final Regulations Addressing Cooling Water Intake Structures for New Facilities; Final Rule'' (FRL7514–9) received on June 18, 2003 ; to the Committee on Environment and Public Works.

EC–2850. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''OMB Approvals Under the Paperwork Reduction Act; Technical Amendment'' (FRL7314–5) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2851. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Polychlorinated Biphenyls; Use of Porous Surfaces; Amendment in Response to Court Decision'' (FRL7314–2) received on June 18, 2003 ; to the Committee on Environment and Public Works.

EC–2852. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Supplemental Allocation of Fiscal Year 2003 Operator Training Grants for Wastewater Security'' received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2853. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Virginia: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL7516–4) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2854. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Guidance on the Use of Environmental Management Systems in Enforcement Settlements as Injunctive Relief and Supplemental Environmental Projects''; to the Committee on Environment and Public Works.

EC–2855. A communication from the Acting Chair, Federal Subsistence Board, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2003–2004 Subsistence Taking of Wildlife Regulations'' (RIN1018–AI62) received on June 18, 2003; to the Committee on Environment and Public Works.

EC–2856. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the March 2003 report on the status of its licensing and regulatory duties; to the Committee on Environment and Public Works.

EC–2857. A communication from the Associate Administrator, Office of Veterans' Business Development, Small Business Administration, transmitting, pursuant to law, a report describing the activities the Advisory Committee on Veterans Business Affairs; to the Committee on Veterans' Affairs.

EC–2858. A communication from the Director, Regulations Management, Police and Security Service, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Privacy Act of 1974; Implementation—Exemption of Police and Security Records'' (RIN2900–AL33) received on June 13, 2003; to the Committee on Veterans' Affairs.

EC–2859. A communication from the Director, Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Increase in Rates Payable Under the Montgomery GI Bill—Active Duty and Survivors' and Developments' Educational Assistance Program'' (RIN2900–AL17) received on June 18, 2003; to the Committee on Veterans' Affairs.

EC–2860. A communication from the Director, Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Veterans Education: Additional Opportunity to Participate in the Montgomery GI Bill and Other Miscellaneous Issues'' (RIN2900–AK81) received on June 18, 2003; to the Committee on Veterans' Affairs.

EC–2861. A communication from the Director, Regulations Management, Veterans' Benefits Administration, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Compensation and Pension Provisions of the Veterans Education and Benefits'' (RIN2900-AL29) received on June 18, 2003; to the Committee on Veterans' Affairs.

EC–2862. A communication from the Assistant Attorney General, Department of Justice, transmitting, a draft of proposed legislation relating to sexual abuse and contraband offenses relating to Federal prisoners; to the Committee on the Judiciary.

EC–2863. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Annual Report on the Refugee Resettlement Program for the period from October 1 , 2000 through September 30, 2001; to the Committee on the Judiciary.

EC–2864. A communication from the Under Secretary and Director, United States Patent and Trademark Office, transmitting, pursuant to law, the report of a rule entitled ''Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications'' (RIN0651–AB37) received on June 19, 2003; to the Committee on the Judiciary.

EC–2865. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements other than treaties; to the Committee on Foreign Relations.

EC–2866. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, Presidential Determination number 2002–26, relative to Suspension of Limitations under the Jerusalem Embassy Act

EC–2867. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report concerning the program recommendation of the Amman, Jordan, Accountability Review Board relative to Laurence Foley; to the Committee on Foreign Relations.

EC–2868. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the Authorization for Use of Military Force Against Iraq Resolution of 2002; to the Committee on Foreign Relations.

EC–2869. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Vietnam; to

the Committee on Banking, Housing, and Urban Affairs.

EC–2870. A communication from the Chairman and President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Australia; to the Committee on Banking, Housing, and Urban Affairs.

EC–2871. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Imposition and Expansion of Controls on Designated Terrorists'' (RIN0694–AC60) received on June 19, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2872. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (44 CFR Part 67) received on June 19, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2873. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (44 CFR Part 65) received on June 19, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2874. A communication from the Assistant General Counsel for Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects'' (RIN2501–AC98) received on June 19, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2875. A communication from the Assistant Secretary, Investment Management, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Certain Research and Development Companies'' (RIN3235–AI57) received on June 17, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–2876. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of the Inspector General for the period October 1, 2002 through March 31 , 2003; to the Committee on Governmental Affairs.

EC–2877. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report of the Office of the Inspector General and the Treasury Inspector General for Tax Administration Report for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2878. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for April 2003; to the Committee on Governmental Affairs.

EC–2879. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2880. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2881. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2882. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2883. A communication from the Chairman, United States Parole Commission, Department of Justice, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for the years 2000 through 2002; to the Committee on Governmental Affairs.

EC–2884. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2885. A communication from the Chairman, National Science Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2886. A communication from the Chairman of the Board of Governors, United States Postal Service, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2887. A communication from the Chairman, United States Government National Labor Relations Board, transmitting, pursuant to law, the report of the Office of the Inspector General for the period from October 1, 2002 through March 31, 2003; to the Committee on Governmental Affairs.

EC–2888. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''NASA Grant and Cooperative Agreement Handbook—Incremental Funding'' (RIN2700–AC53) received on June 19, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2889. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: (4)'' (RIN1625–AA09) received on June 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2890. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Licensing and Manning for Officers of Towing Vessels'' (RIN1625–AA41) received on June 13, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2891. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure; Prohibiting Directed Fishing for Species that Comprise Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' received on June 19, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2892. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure; Prohibiting Directed Fishing for Yellowfin Sole by Vessels Using Trawl Gear in Baycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands Management Area'' received on June 19, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2893. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Antarctic Marine Living Resources; CCAMLR Ecosystem Monitoring Permits; Vessel Monitoring System; Catch Documentation Scheme; Fishing Season; Registered Agent; and Disposition of Seized AMLR'' (RIN0648–AP74) received on June 19, 2004; to the Committee on Commerce, Science, and Transportation.

EC–2894. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Commercial Shark Management Measures; Emergency Rule; Extension of Expiration Date ; Request for Comments; Fishing Season Notification'' (RIN0648–AQ39) received on June 19, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2895. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Framework Adjustment 2 to the Monkfish Fishery Management Plan'' (RIN0648–AQ29) received on June 19, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2896. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule: Regulations Governing the Taking and Importing of Marine Mammals; Eastern North Pacific Southern Resident Killer Whales'' (RIN0648–AQ00) received on June 19, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2897. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule Concerning Disclosures Re. Energy Consumption and Water Use of Certain home Appliances and Other Products Required Under the Energy Policy and Conservation Act—Final Rule and Conditional Exemption for Clothes Washer Labels'' (RIN3084–AA74) received on June 21, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2898. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Governmental Affairs; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 312. A bill to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program (Rept. No. 108–78).

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. BROWNBACK (for himself, Mr. DORGAN, Mr. GRASSLEY, Mr. BAUCUS, Mr. DASCHLE, Mr. ROBERTS, Mr. BURNS, Mr. BOND, Mr. ALLARD, Mr. HAGEL, Mr. DEWINE, Mr. CRAIG, Mr. LEVIN, Mr. LEAHY, Mr. CONRAD, Mr. HARKIN, and Mr. JEFFORDS):

S. 1316. A bill to treat payments under the Conservation Reserve Program as rentals from real estate; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. BIDEN, and Mr. DURBIN):

S. 1317. A bill to amend the American Servicemember's Protection Act of 2002 to provide clarification with respect to the eligibility of certain countries for United States military assistance; to the Committee on Armed Services.

By Ms. SNOWE:

S. 1318. A bill to deauthorize the project for navigation, Tenants Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE:

S. 1319. A bill to deauthorize the project for navigation, Northeast Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE:

S. 1320. A bill to modify the project for navigation, Union River, Maine; to the Committee on Environment and Public Works.

By Mrs. CLINTON (for herself, Mrs. MURRAY, and Mr. BINGAMAN):

S. 1321. A bill to authorize resources to foster a safe learning environment that supports academic achievement for all students by improving the quality of interim alternative educational settings, providing more behavioral supports in schools, and supporting whole school interventions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 1322. A bill to require States to make certain information regarding sexually violent predators accessible on the Internet; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. LEAHY, and Mr. SESSIONS):

S. 1323. A bill to extend the period for which chapter 12 of title 11, United States Code, is reenacted by 6 months; read the first time.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1324. A bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes; to the Committee on Finance.

By Mr. BURNS (for himself, Mr. GRAHAM of South Carolina, Mr. HAGEL, and Mr. FITZGERALD):

S. 1325. A bill to amend the National Highway System Designation Act of 1995 to modify the applicability of requirements concerning hours of service to operators of commercial motor vehicles transporting agricultural commodities and farm supplies; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. Res. 181. A resolution congratulating all New Yorkers on the occasion of their first Kentucky Derby victory and the subsequent Preakness Stakes victory with New York-bred gelding, Funny Cide; to the Committee on the Judiciary.

By Ms. STABENOW:

S. Res. 182. A resolution congratulating the American Dental Association for establishing the ''Give Kids a Smile'' program, emphasizing the need to improve access to dental care for children , and thanking dentists for volunteering their time to help provide needed dental care; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 202

At the request of Mr. DEWINE, the names of the Senator from New York (Mr. SCHUMER) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S . 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 224

At the request of Mr. DASCHLE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 224, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 451

At the request of Ms. SNOWE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 518

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Wisconsin (Mr . FEINGOLD) and the Senator from California (Mrs. BOXER) 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. 623

At the request of Mr. WARNER, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 623 , a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 735

At the request of Mr. BOND, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 735, a bill to amend the Internal Revenue Code of 1986 to clarify the exemption from tax for small property and casualty insurance companies.

S. 780

At the request of Mr. LOTT, the name of the Senator from North Dakota (Mr. DORGAN) 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. 852

At the request of Mr. DEWINE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S . 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

S. 863

At the request of Mr. EDWARDS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 863, a bill to amend the Higher Education Act of 1965 to allow soldiers to serve their country without being disadvantaged financially by Federal student aid programs.

S. 875

At the request of Mr. KERRY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 877

At the request of Mr. BURNS, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

S. 939

At the request of Mr. HAGEL, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 939 , a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 955

At the request of Mr. ALLEN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor

of S. 955, a bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

S. 973

At the request of Mr. NICKLES, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 976

At the request of Mr. WARNER, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Hawaii (Mr. AKAKA) 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. 1046

At the request of Mr. STEVENS, the name of the Senator from New Jersey (Mr. LAUTENBERG) 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. 1082

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1082, a bill to provide support for democracy in Iran.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1110

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1110, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes.

S. 1129

At the request of Mrs. FEINSTEIN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 1129, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 1153

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1153, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 1218

At the request of Mr. HOLLINGS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1218, a bill 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.

S. 1236

At the request of Mr. CAMPBELL, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1236, a bill to direct the Secretary of the Interior to establish a program to control or eradicate tamarisk in the western States, and for other purposes.

S. 1248

At the request of Mr. GREGG, the names of the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from Rhode Island (Mr. REED) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1248, a bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

S. 1289

At the request of Mr. GRAHAM of Florida, the names of the Senator from Georgia (Mr. MILLER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1289, a bill to name the Department of Veterans Affairs Medical Center in Minneapolis, Minnesota, after Paul Wellstone.

S. 1290

At the request of Mr. HOLLINGS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1290, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of tax-exempt bonds issued for the purchase or maintenance of electric generation, transmission, or distribution assets.

S. 1293

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1293, a bill to criminalize the sending of predatory and abusive e-mail.

S. 1293

At the request of Mr. HATCH, the names of the Senator from Montana (Mr. BURNS) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1293, supra.

S. 1294

At the request of Mrs. MURRAY, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1294, a bill to authorize grants for community telecommunications infrastructure planning and market development, and for other purposes.

S. 1303

At the request of Mr. BROWNBACK, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1303, a bill to amend title XVIII of the Social Security Act and otherwise revise the Medicare Program to reform the method of paying for covered drugs, drug administration services, and chemotherapy support services.

S. CON. RES. 40

At the request of Mrs. CLINTON, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as ''National Purple Heart Recognition Day''.

S. RES. 151

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Res. 151, a resolution eliminating secret Senate holds.

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 169

At the request of Mrs. CLINTON, the names of the Senator from Georgia (Mr. MILLER) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Res. 169, a resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank.

AMENDMENT NO. 956

At the request of Mr. GRAHAM of Florida, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor 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.

AMENDMENT NO. 969

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 969 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. 974

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 974 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. 976

At the request of Mr. SARBANES, his name was added as a cosponsor of amendment No. 976 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. 982

At the request of Mr. LAUTENBERG, the names of the Senator from Rhode Island (Mr. REED), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. CORZINE) and the Senator from Nevada (Mr. REID) were added as cosponsors of amendment No. 982 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. 982

At the request of Ms. MIKULSKI, her name was added as a cosponsor of amendment No. 982 proposed to S. 1, supra.

AMENDMENT NO. 998

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 998 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. 998

At the request of Ms. MIKULSKI, her name was added as a cosponsor of amendment No. 998 proposed to S. 1, supra.

AMENDMENT NO. 1000

At the request of Mrs. CLINTON, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 1000 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. BROWNBACK (for himself, Mr. DORGAN, Mr. GRASSLEY, Mr. BAUCUS, Mr. DASCHLE, Mr. ROBERTS, Mr. BURNS, Mr. BOND, Mr. ALLARD, Mr. HAGEL, Mr. DEWINE, Mr. CRAIG, Mr. LEVIN, Mr. LEAHY, Mr. CONRAD, Mr. HARKIN, and Mr. JEFFORDS):

S. 1316. A bill to treat payments under the Conservation Reserve Program as rentals from real estate; to the Committee on Finance.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the ''Conservation Reserve Program Tax Fairness Act of 2003'' be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1316

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 ''Conservation Reserve Program Tax Fairness Act of 2003''.

SEC. 2. TREATMENT OF CONSERVATION RESERVE PROGRAM PAYMENTS AS RENTALS FROM REAL ESTATE.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1) of the Internal Revenue Code of 1986 (defining net earnings from self-employment) is amended by inserting ''and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))'' after ''crop shares''.

(b) SOCIAL SECURITY ACT.—Section 211(a)(1) of the Social Security Act is amended by inserting ''and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))'' after ''crop shares''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made before, on, or after the date of the enactment of this Act.

Mr. DORGAN. Mr. President, I'm pleased to join Senator BROWNBACK and a number of our colleagues today in reintroducing the Conservation Reserve Program Tax Fairness Act. This legislation is virtually identical to the bill we introduced in the 107th Congress, which garnered nearly twenty Senate cosponsors. It clarifies that Conservation Reserve Program, CRP, payments received by farmers are treated for Federal tax purposes as rental payments from real estate, not self-employment income subject to self-employment taxes.

Despite past strong bipartisan support for this legislation, the Congress did not make this long overdue tax law clarification in the major tax reduction bill that was recently signed into law. This is regrettable and I hope that the Congress will move expeditiously to reverse the IRS's wrong-headed position on this matter.

Let me take a moment to describe this problem. For many years, the IRS has been taking the erroneous position that CRP payments received by farmers are income from self-employment and therefore are subject to self-employment taxes. This position imposes a significant financial hardship on family farmers farmers who have voluntarily agreed to take environmentally-sensitive lands out of farm production and place them in the Conservation Reserve Program in return for an annual rental payment from the Commodity Credit Corporation of the U.S. Department of Agriculture.

In our judgment, the IRS's tax treatment of CRP payments is not what Congress intended, nor is it supportable in law. The U.S. Tax Court shares our view that the IRS position is improper. In fact, the U.S. Tax Court ruled in 1998 that CRP payments are properly treated by farmers as rental payments and, thus, not subject to self-employment taxes. Unfortunately, the IRS challenged the Tax Court decision and the Tax Court was later reversed by a federal appellate court.

Today, North Dakota has some 3.3 million acres with $110 million in rental payments in the CRP program. Left unchanged, the IRS's interpretation means that farmers in North Dakota will owe an additional $16 million in federal taxes this year. A typical North Dakota farmer with 160 acres in CRP would have a CRP payment of $5,280 and would owe nearly $800 in self-employment taxes because of the IRS's ill-advised position. If the IRS also decides to pursue back taxes on returns filed by farmers in past years, the amount of taxes owed by individuals farmers for CRP payments could amount to thousands of dollars.

I believe that it is absolutely wrong for the IRS to load up farmers with an added tax burden, especially when most of our Nation's family farmers are still struggling from day to day to make ends meet. With the legislation we are introducing today, Congress can tell the IRS that its effort to treat CRP payments as net earnings from self-employment is inappropriate and will not be allowed to stand.

Senator BROWNBACK and I ask our colleagues to support this much-needed tax relief for family farmers by cosponsoring the Conservation Reserve Program Tax Fairness Act. And we hope you will work with us to get this legislation enacted into law at the first available opportunity.

By Mr. SMITH (for himself, Mr. BIDEN, and Mr. DURBIN):

S. 1317. A bill to amend the American Servicemember's Protection Act of 2002 to provide clarification with respect to the eligibility of certain countries for United States military assistance; to the Committee on Armed Services.

Mr. SMITH. Mr. President, on behalf of myself and my colleagues Mr. BIDEN of Delaware and Mr. DURBIN of Illinois, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1317

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

SECTION 1. ELIGIBILITY OF CERTAIN COUNTRIES FOR UNITED STATES MILITARY ASSISTANCE.

(a) AMENDMENT.—Section 2007(d)(1) of the American Servicemembers' Protection Act of 2002 (title II of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107–206; 116 Stat. 905)) is amended by inserting ''or a country that has concluded a protocol with NATO for the accession of the country to NATO'' before the semicolon.

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

By Ms. SNOWE:

S. 1318. A bill to deauthorize the project for navigation, Tenants Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE:

S. 1319. A bill to deauthorize the project for navigation, Northeast Harbor, Maine; to the Committee on Environment and Public Works.

By Ms. SNOWE:

S. 1320. A bill to modify the project for navigation, Union River, Maine; to the Committee on Environment and Public Works.

Ms. SNOWE. Mr. President, I rise today to introduce three bills for harbors in Maine, two of them that will deauthorize the Federal Navigation Projects in Tenants Harbor and Northeast Harbor in Mt. Desert, and the third will redesignate the Upper Basin of the Union River Federal Navigational Channel in Ellsworth as an anchorage. The bills will help strengthen the economic viability of these three popular Maine harbors.

My first bill, S. 1318, pertains to Tenants Harbor, ME. Officials of the Town of Tenants Harbor have requested that the harbor be deauthorized. The original project was authorized in 1919, and was dredged that same year so that steamboats could access the Harbor. The channel has a width of 375 feet and extended out to 1,100 feet from Steamboat Wharf. Times have certainly changed as no steamboat has landed in the Harbor for 75 years. Over the years there have been mounting problems with the Army Corps of Engineers' mooring permit process as people seeking permits for moorings that have existed for 30 years continue to be notified that the mooring locations are prohibited because they fall within the Federal navigational channel. Deauthorizing the FNC would be of great help to the town in appropriately managing the Harbor to maximize mooring areas.

My second bill S. 1319 concerns Northeast Harbor in Mt. Desert, ME. The Town of Mount Desert has requested that Northeast Harbor be withdrawn from the Federal Navigation Project because of changing harbor usage over the last 45 years. This removal will allow the town to adapt to the high demand for moorings and will allow residents to obtain moorings in a more timely manner. The Harbor has now reached capacity for both moorings and shoreside facilities and has a waiting list of over sixty people, along with commercial operators who have been waiting for years to obtain a mooring for their commercial vessels.

The Harbor was authorized in 1945 and constructed in 1954 as a mixed-use commercial fishing/recreational boating harbor—and it still is today. It was dredged in the early 1950s to provide more space for recreational boating and the U.S. Army Corps of Engineers has informed the town that Northeast Harbor would be very low on its dredging priority list as it has become primarily a recreational harbor. The town says it realizes that, once it is no longer part of the Federal Navigational Project, any further dredging within the harbor would be carried out at town expense.

The language will not only allow for more recreational moorages and commercial activities, it will also be an economic boost to Northeast Harbor, which is surrounded by Acadia National Park, one of the nation's most visited parks—both by land and by water.

My third bill, S. 1320, addresses the Union River in Ellsworth, ME. The bill supports the City of Ellsworth's efforts to revitalize the Union River navigation channel, harbor, and shoreline. The modification called for in my legislation will redesignate a portion of the Union River as an anchorage area. This redesignation will allow for a greater number of moorings in the harbor without interfering with navigation and will further improve the city's revitalization efforts for the harbor area.

I have worked with the New England Division of the Corps to draft these bills and the language has been approved by Army Corps Headquarters in Washington. I look forward to working with my colleagues for their passage, either as stand alone bills or as separate provisions in the Corps reauthorization bill, the Water Resources Development Act of 2003, that Congress is currently drafting.

By Mr. GRASSLEY (for himself, Mr. LEAHY, and Mr. SESSIONS):

S. 1323. A bill to extend the period for which chapter 12 of title 11, United States Code, is reenacted by 6 months; read the first time.

Mr. GRASSLEY. Mr. President, I rise today to introduce a bill to extend Chapter 12 of the Bankruptcy Code until January 1, 2004. This measure will provide our family farmers with the necessary bankruptcy protections during hard times. However, I remain hopeful that the Senate will take up and pass the comprehensive bankruptcy legislation that the House passed not long ago. That bill makes Chapter 12 of the Bankruptcy Code permanent, so family farms are guaranteed the ability to reorganize. The bill also makes significant improvements to Chapter 12 so that it will be more accessible and helpful to farmers. So while I urge quick passage of this temporary Chapter 12 measure, I would like to see the comprehensive bankruptcy Reform bill and permanent Chapter 12 enacted into law as soon as possible. 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. 1323

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) shall take effect on July 1, 2003.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1324. A bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I'm pleased to introduce today the United States Agricultural Products Market Access Act of 2003. This bill will be yet one more tool for the United States to use to expand its exports of agricultural products.

Agricultural exports are key to the economic health of rural America. Just last year, $53.1 billion worth of U.S.-produced agricultural products were exported. About one-third of America's farm products are sold outside of our borders. These sales in foreign markets translate to improved incomes for our country's farmers. Today, approximately one-fourth of gross farm income for U.S. producers comes from exports.

Agricultural exports are particularly important to farmers in my State of Iowa. In 2001, some $3.3 billion worth of Iowa's agricultural production was exported. This makes Iowa the second largest agricultural exporting State in the country. Iowa's largest commodities—corn, soybeans, pork, and beef—greatly benefit from sales abroad. Approximately one-half of U.S. soybean production, and 20 percent of our country's corn production, is exported. Last year U.S. pork exports set record levels. Since the implementation of the NAFTA, exports of U.S. beef and beef

variety meats to Mexico have increased five-fold. Iowa's producers clearly benefit from exports.

While Iowa's agricultural exports are already high, they have the potential to grow even more in coming years. Demand in the U.S. market for agricultural products is relatively stable. But populations, as well as disposable incomes, are increasing rapidly in foreign countries. With the hardest-working farmers and ranchers in the world, and with productivity increasing through improved technologies, the United States clearly has the ability to continue feeding a growing world.

But trade barriers imposed by foreign governments often cloud this bright spot for U.S. agriculture. Too frequently, misguided foreign governments overlook the wants and needs of their consumers and take measures to restrict, or prevent, imports of U.S. farm products. These policies hurt U.S. farmers. They also hurt foreign consumers.

In fact, due in part to foreign trade barriers, U.S. agricultural exports declined from $60.4 billion in 1996 to $53.1 billion in 2002.

Unfortunately, even countries that should be our closest trade allies are proving adept at imposing measures that block imports of U.S. farm products. As an example, our NAFTA-partner Mexico is imposing, or threatening to impose, barriers to imports of a wide variety of U.S. agricultural products. These products include corn, high fructose corn syrup, pork, beef, rice, apples, and dry beans. Iowa is a major producer of four of these products—corn, high fructose corn syrup, pork, and beef.

Not surprisingly, much of U.S. agriculture is upset with Mexico and other of our trading partners at this time. U.S. agricultural producers have traditionally been the strongest supporters of new trade deals. But due to foreign trade barriers, some in U.S. agriculture are beginning to question their support for new trade agreements.

The U.S. Trade Representative, in conjunction with Congress, is working hard to remove trade barriers imposed by Mexico and other countries. But the current tools available to the USTR, including negotiations, NAFTA challenges, and WTO challenges, don't always accomplish the job.

Let me give you an example. For several years now, Mexico has gone to great lengths to block imports of U.S.-produced high fructose corn syrup. In 1998, Mexico imposed antidumping duties on imports of this product from the United States. The United States challenged this antidumping order under the NAFTA. Mexico lost at the NAFTA. The United States challenged this order at the WTO. Mexico lost at the WTO. Following its defeats at the NAFTA and the WTO, Mexico revoked this antidumping order.

But, no, that wasn't the end of the story. Mexico turned around and imposed a 20 percent tax on sales of soft drinks containing high fructose corn syrup. This discriminatory tax was designed to boost sales of Mexican sugar at the expense of U.S.-produced high fructose corn syrup.

Mexico's tax in effect shut down the Mexican market for this product. Iowa's high fructose corn syrup producers are now being locked out of what was at one time their largest export market. This discriminatory tax is hurting Iowa's high fructose corn syrup producers. It's hurting Iowa's corn farmers.

This example clearly demonstrates that existing tools aren't always enough to remove entrenched trade barriers. Despite losing at the NAFTA, despite losing at the WTO, and despite lengthy negotiations, Mexico is still blocking imports of U.S. high fructose corn syrup.

It's time to add yet another tool to our arsenal.

That's why I'm introducing the United States Agricultural Products Market Access Act of 2003. This bill creates a new mechanism with which to confront foreign trade barriers. The new mechanism operates in a similar fashion to the existing special 301 provision for intellectual property. The bill requires USTR to identify and report on those foreign countries that deny fair and equitable market access for U.S. agricultural exports, or countries that apply to U.S. agricultural products sanitary or phytosanitary measures that are not based on sound science. USTR would annually issue a report on its findings.

Out of the countries identified in USTR's report, USTR would identify which ones have the most egregious practices impacting U.S. agricultural exports and, further, are not entering into good faith negotiations with the United States to end these practices.

This legislation also authorizes additional staffing for USTR to focus on these agricultural enforcement issues.

This bill will further strengthen the ability of the United States to enforce its existing market access rights for agricultural exports. Perhaps just as important, it will help Congress and the Administration prioritize barriers imposed by our trading partners. Through such prioritization, U.S. negotiators will be better able to focus upon removing the most egregious of these barriers.

The United States Agricultural Products Market Access Act will not solve all of our agricultural market access problems. We need to move ahead vigorously in bilateral and multilateral negotiations to tear down barriers to our exports. At the top of this list is successful completion of agricultural negotiations in the WTO. However, the United States Agricultural Products Market Access Act of 2003 will help us identify the most egregious problems, so we can focus our energy on fixing them. It will also provide a new enforcement tool to help make sure American farmers are getting the benefit of our hard fought trade bargains.

This bill is strongly supported by Iowa's agricultural community, including the Iowa Corn Growers, the Iowa Farm Bureau Federation, and the Iowa Soybean Association.

I would like to thank my distinguished colleagues Senator MAX BAUCUS, Ranking Member of the Finance Committee, and Representative DAVE CAMP for their hard work on this legislation.

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. 1324

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 ''United States Agricultural Products Market Access Act of 2003''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The export of agricultural products is of vital importance to the economy of the United States.

(2) In 2002, agriculture was a large positive contributor to the United States merchandise trade balance with a trade surplus of $12,300,000,000.

(3) The growth of United States agricultural exports should continue to be an important factor in improving the United States merchandise trade balance.

(4) Increasing the volume of agricultural exports will increase farm income in the United States, thereby protecting family farms and contributing to the economic well-being of rural communities in the United States.

(5) Although the United States efficiently produces high-quality agricultural products, United States producers cannot realize their full export potential because many foreign countries deny fair and equitable market access to United States agricultural products.

(6) The Foreign Agricultural Service estimates that United States agricultural exports are reduced by $4,700,000,000 annually due to unjustifiable imposition of sanitary and phytosanitary measures that deny or limit market access to United States products.

(7) The denial of fair and equitable market access for United States agricultural products impedes the ability of United States farmers to export their products, thereby harming the economic interests of the United States.

(b) PURPOSES.—The purposes of this Act are—

(1) to reduce or eliminate foreign unfair trade practices and to remove constraints on fair and open trade in agricultural products;

(2) to ensure fair and equitable market access for exports of United States agricultural products; and

(3) to promote free and fair trade in agricultural products.

SEC. 3. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS.

(a) IDENTIFICATION REQUIRED.—Chapter 8 of title I of the Trade Act of 1974 (19 U.S.C. 2241 et seq.) is amended by adding at the end the following:

''SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS FOR AGRICULTURAL PRODUCTS.

''(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the

annual report is required to be submitted to Congressional committees under section 181(b), the United States Trade Representative (in this section referred to as the 'Trade Representative') shall identify—

''(1) those foreign countries that—

''(A) deny fair and equitable market access to United States agricultural products, or

''(B) apply standards for the importation of agricultural products from the United States that are not related to public health concerns or cannot be substantiated by reliable analytical methods, and

''(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

''(b) SPECIAL RULES FOR IDENTIFICATIONS.—

''(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

''(A) that engage in or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States agricultural products,

''(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

''(C) that are not—

''(i) entering into good faith negotiations, or

''(ii) making significant progress in bilateral or multilateral negotiations,

to provide fair and equitable market access to United States agricultural products.

''(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

''(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government, and

''(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

''(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d).

''(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

''(A) the history of agricultural trade relations with the foreign country, including any previous identification under subsection (a)(2), and

''(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States agricultural products.

''(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

''(1) AUTHORITY TO ACT AT ANY TIME.—If information available to the Trade Representative indicates that such action is appropriate, the Trade Representative may at any time—

''(A) revoke the identification of any foreign country as a priority foreign country under this section, or

''(B) identify any foreign country as a priority foreign country under this section.

''(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

''(d) DENIAL OF FAIR AND EQUITABLE MARKET ACCESS DEFINED.—For purposes of this section, a foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

''(1) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

''(2) constitute discriminatory nontariff trade barriers.

''(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

''(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving fair and equitable market access for United States agricultural products.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

''Sec. 183. Identification of countries that deny market access for agricultural products.''.

(c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT TRADE REPRESENTATIVE FOR AGRICULTURAL AFFAIRS AND OFFICE OF ASSISTANT TRADE REPRESENTATIVE FOR MONITORING AND ENFORCEMENT.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2004 for the salaries and expenses of 1 additional specialist employee position within the Office of the Assistant United States Trade Representative for Agricultural Affairs and 1 additional specialist employee position within the Office of the Assistant United States Trade Representative for Monitoring and Enforcement.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 4. INVESTIGATIONS.

(a) INVESTIGATION REQUIRED.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)) is amended by inserting ''or 183(a)(2)'' after ''section 182(a)(2)'' in the matter preceding clause (i).

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 302(b)(2) of such Act is amended by inserting ''concerning intellectual property rights that is'' after ''any investigation''.

By Mr. BURNS (for himself, Mr. GRAHAM of South Carolina, Mr. HAGEL, and Mr. FITZGERALD):

S. 1325. A bill to amend the National Highway System Designation Act of 1995 to modify the applicability of requirements concerning hours of service to operators of commercial motor vehicles transporting agricultural commodities and farm supplies; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, today I am introducing legislation that will protect an existing exemption for farmers and agribusinesses from the Department of Transportation's, DOT, limitations on maximum driving time in transporting agricultural commodities or farm supplies during peak planting and growing seasons.

In 1995, Public Law 104–59 passed by Congress granted farmers and retail farm suppliers a limited exemption from DOT limitations on maximum driving time in transporting agricultural commodies or farm supplies within a 100-mile radius of a final distribution point. This legislation recognized the special needs of rural America, understanding that drivers employed by farm retailers generally operate in local areas to farmers' fields delivering and applying crop inputs. Much of their time is spent waiting at the field or the farm store loading and unloading their trucks. In short, farm retail drivers stay in a local area and return to their homes each night to sleep. The work of these crop input suppliers is essential to the Nation's farmers, who often have short windows of time to plant and harvest their crop around changing weather patterns.

The agricultural exemption is seasonal, applying only during designated months throughout the year as determined by each State. Every State has now taken this action, and to my knowledge this exemption has not had any impact on public safety.

It is important to note that under my clarifying legislation, the farm supply/farm commodity exemption would remain limited in scope.

My legislation reiterates original Congressional support for the agricultural exemption. The DOT has no expertise in this area nor, in my opinion, does the definition of agricultural commodity come under the jurisdiction of this agency. In addition, the term ''agricultural commodity'' is already defined by Section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602). Therefore, in my legislation, Section 345 (e) of the National Highway System Designation Act of 1995 is amended to reflect the definition in the Agricultural Trade Act.

A bipartisan group of House Members are also seeking clarifying legislation in this regard with Representative BEREUTER of Nebraska taking the lead.

I urge all my colleagues to join me in passing this legislation to protect the agricultural exemption to hours of service rules and prevent DOT from diminishing or revoking the exemption.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 181—CONGRATULATING ALL NEW YORKERS ON THE OCCASION OF THEIR FIRST KENTUCKY DERBY VICTORY AND THE SUBSEQUENT PREAKNESS STAKES VICTORY WITH NEW YORK-BRED GELDING, FUNNY CIDE

Mr. SCHUMER (for himself and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 181

Whereas on Saturday, May 3, 2003, Funny Cide won the 129th Kentucky Derby by 1¾ lengths, with a time of 2:01:19, and became the first New York-bred horse to win the Run for the Roses and the first gelding to win the Derby since Clyde Van Dusen in 1929;

Whereas on Saturday, May 17, 2003, Funny Cide won the 128th Preakness Stakes by 9¾ lengths, with a time of 1:55:61, and became the first New York-bred horse in 107 years, and the first gelding since Prairie Bayou in 1993, to win the Preakness;

Whereas Funny Cide is the great-great grandson of the 1977 Triple Crown winner, Seattle Slew;

Whereas Funny Cide was trained by Barclay Tagg and ridden by jockey Jose Santos;

Whereas high school friends from Sackets Harbor, New York, along with friends made thereafter, are the proud owners of Funny Cide,

Whereas Funny Cide races out of Sackatoga Stables, named after the hometown of the original owners — Sacket Harbor, New York — and the home of another owner — Saratoga Springs, New York; and

Whereas Funny Cide, a horse with a reputation as being ''from the wrong side of the track'', has become the pride and joy of all New Yorkers: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Sackatoga Stables for Funny Cide's victories at the 129th Kentucky Derby and the 128th Preakness Stakes; and

(2) directs the Secretary of the Senate to make available enrolled copies of this resolution for appropriate display to the owners of Funny Cide, trainer Barclay Tagg, and jockey Jose Santos.

SENATE RESOLUTION 182—CONGRATULATING THE AMERICAN DENTAL ASSOCIATION FOR ESTABLISHING THE ''GIVE KIDS A SMILE'' PROGRAM, EMPHASIZING THE NEED TO IMPROVE ACCESS TO DENTAL CARE FOR CHILDREN, AND THANKING DENTISTS FOR VOLUNTEERING THEIR TIME TO HELP PROVIDE NEEDED DENTAL CARE

Ms. STABENOW submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 182

Whereas access to dental care for children is a vital element of overall health care and development;

Whereas dental caries—more commonly known as tooth decay—is the most common chronic childhood disease;

Whereas untreated tooth decay in children results in thousands of children experiencing poor eating and sleeping patterns, suffering decreased attention spans at school, and being unable to smile;

Whereas, due to a confluence of factors, children eligible for Medicaid and the State Children's Health Insurance Program are 3 to 5 times more likely than other children to have untreated tooth decay;

Whereas dentists provide an estimated $1,700,000,000 annually in nonreimbursed dental care;

Whereas dentists participating in the American Dental Association established the ''Give Kids a Smile'' program to serve as a reminder to the Nation about the need to end untreated childhood dental disease; and

Whereas the ''Give Kids a Smile'' program treated an estimated 1,000,000 children on February 21, 2003, at approximately 5,000 locations in all 50 States: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the American Dental Association for establishing the ''Give Kids a Smile'' program;

(2) emphasizes the need to improve access to dental care for children; and

(3) thanks the thousands of dentists who volunteered their time and brought a smile to faces of an estimated 1,000,000 children on February 21, 2003.

Ms. STABENOW. Mr. President, someone once said, ''A smile costs nothing, but gives much. It enriches those who receive, without making poorer those that give.'' I rise today to offer a resolution to congratulate the American Dental Association for establishing the ''Give Kids a Smile'' program.

This program emphasizes the need to improve dental care access for children. Tooth decay is the most common chronic childhood disease. Tooth decay can cause poor eating and sleeping patterns, decreased attention spans at school, and sadly, prevents children from showing their smiles.

Low income children are much more likely to suffer from tooth decay. Children who are eligible for Medicaid and State Children's Health Insurance Program, SCHIP, are 3 to 5 times more likely than other children to have untreated tooth decay. The ''Give Kids a Smile'' program is helping these children.

Along with helping children get the dental care that they need, this program brings attention to the fact that this is a serious issue that children in our nation are facing. This program provides for and promotes education on dental care, good dental hygiene, dental screenings, exams and radiographs, and even gives sealants and fillings.

On February 21st, my State, Michigan, brought healthier teeth and brighter smiles to 12,800 low-income and disadvantage children. Nearly 1 million children were treated nationwide.

Dentists, such as Dr. John Buchheister, Dr. Sara Wassenaar, Dr. Dale Nester, Dr. Martha Bamfield, and Dr. Gary Schluckebier in Michigan, volunteered their time, resources, and services to give children dental screenings, exams, sealants, and fillings.

Nearly 8,300 children in Michigan also listened to dental education presentations by dental professionals.

I am pleased to stand here today and congratulate the American Dental Association for their leadership on this important children's health issue and for establishing the ''Give Kids a Smile'' program.

I also want to thank the Michigan Dental Association for participating in this program and I want to thank all of the dentists in Michigan and across the Nation that took the time to make the inaugural ''Give Kids a Smile'' day a great success. After all, ''A smile can open a heart faster than a key can open a door.''

AMENDMENTS SUBMITTED & PROPOSED

SA 1001. Mrs. BOXER (for herself 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 1002. Mrs. LINCOLN (for herself, Mr. CONRAD, Mr. MILLER, Mr. CARPER, Mr. JOHNSON, Ms. MIKULSKI, Mrs. CLINTON, and Mr. DORGAN) proposed an amendment to the bill S. 1, supra.

SA 1003. Mr. BROWNBACK (for himself and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1004. Mrs. HUTCHISON proposed an amendment to the bill S. 1, supra.

SA 1005. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1006. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1007. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1008. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1009. Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1010. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill S. 1, supra.

SA 1011. Mr. SESSIONS proposed an amendment to the bill S. 1, supra.

SA 1012. Mr. HAGEL (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1013. Mr. BOND (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1014. Mr. BOND submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1015. 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 1016. 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 1017. Mr. ALLARD (for himself, Mr. FITZGERALD, and Ms. COLLINS) submitted an

amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1018. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1019. Mr. CONRAD (for himself, Mrs. MURRAY, Mr. SMITH, Mrs. LINCOLN, and Mr. JEFFORDS) proposed an amendment to the bill S. 1, supra.

SA 1020. Mr. CONRAD proposed an amendment to the bill S. 1, supra.

SA 1021. Mr. CONRAD proposed an amendment to the bill S. 1, supra.

SA 1022. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1023. 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 1024. Mr. ENSIGN (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 1025. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1026. Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LOTT, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1027. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1028. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1029. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1030. Mr. ENZI submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1031. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 1032. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1033. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1034. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1035. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1036. Mr. REID (for Mrs. BOXER) proposed an amendment to the bill S. 1, supra.

SA 1037. Mr. REID (for Mr. CORZINE) proposed an amendment to the bill S. 1, supra.

SA 1038. Mr. REID (for Mr. JEFFORDS) proposed an amendment to the bill S. 1, supra.

SA 1039. Mr. REID (for Mr. INOUYE) proposed an amendment to the bill S. 1, supra.

SA 1040. Mr. SCHUMER (for himself, Mr. CORZINE, Mrs. CLINTON, and 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 1041. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1042. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 1043. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1001. Mrs. BOXER (for herself 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:

On page 49, strike line 3 through page 50, line 2 and insert the following:

''(2) LIMITS ON COST-SHARING.—

''(A) IN GENERAL.—The coverage has cost-sharing (for costs above the annual deductible specified in paragraph (1) and up to the annual out-of-pocket limit under paragraph (4)) that is equal to 50 percent or that is actuarially consistent (using processes established under subsection (f)) with an average expected payment of 50 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).

SA 1002. Mrs. LINCOLN (for herself, Mr. CONRAD, Mr. MILLER, Mr. CARPER, Mr. JOHNSON, Ms. MIKULSKI, Mrs. CLINTON, and 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:

On page 83, strike lines 1 through 7, and insert the following:

''(5) CONTRACT TO BE AVAILABLE IN DESIGNATED AREA FOR 2 YEARS.—Notwithstanding paragraph (1), if the Administrator enters into a contract with an entity with respect to an area designated under subparagraph (B) of such paragraph for a year, the following rules shall apply:

''(A) The contract shall be for a 2-year period.

''(B) The Secretary is not required to make the determination under paragraph (1)(A) with respect to the second year of the contract for the area.

''(C) During the second year of the contract, an eligible beneficiary residing in the area may continue to receive standard prescription drug coverage (including access to negotiated prices for such beneficiaries pursuant to section 1860D–6(e)) under such contract or through any Medicare Prescription Drug plan that is available in the area.

At the end of title VI, add the following:

SEC. ___. 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 1003. Mr. BROWNBACK (for himself and Mr. NELSON of Nebraska) 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 VI, insert the following:

SEC. .RURAL COMMUNITY HOSPITAL ASSISTANCE.

(a) ESTABLISHMENT OF RURAL COMMUNITY HOSPITAL (RCH) PROGRAM.

(1) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end of the following new subsection: ''Rural Community Hospital; Rural Community Hospital Services ''(ww)(1) The term 'rural community hospital' means a hospital (as defined in subsection (e)) that—

''(A) is located in a rural area (as defined in section 1886(d)(2)(D)) or treated as being so located pursuant to section 1886(d)(8)(E);

''(B) subject to paragraph (2), has less than 51 acute care inpatient beds, as reported in its most recent cost report; 10

''(C) makes available 24-hour emergency care services;

''(D) subject to paragraph (3), has a provider agreement in effect with the Secretary and is open to the public as of January 1, 2003; and

''(E) applies to the Secretary for such designation.

''(2) For purposes of paragraph (1)(B), beds in a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital shall not be counted.

''(3) Subparagraph (1)(D) shall not be construed to prohibit any of the following from qualifying as a rural community hospital:

''(A) A replacement facility (as defined by the Secretary in regulations in effect on January 1, 2003) with the same service area (as defined by the Secretary in regulations in effect on such date).

''(B) A facility obtaining a new provider number pursuant to a change of ownership.

''(C) A facility which has a binding written agreement with an outside, unrelated party for the construction, reconstruction, lease, rental, or financing of a building as of January 1, 2003.

''(4) Nothing in this subsection shall be construed as prohibiting a critical access hospital from qualifying as a rural community hospital if the critical access hospital meets the conditions otherwise applicable to hospitals under subsection (e) and section 1866.''.

(2) PAYMENT.—

(A) INPATIENT SERVICES.—Section 1814 (42 U.S.C. 1395f) is amended by adding at the end the following new subsection: ''Payment for Inpatient Services Furnished in Rural Community Hospitals

''(m) The amount of payment under this part for inpatient hospital services furnished in a rural community hospital, other than such services furnished in a psychiatric or rehabilitation unit of the hospital which is a distinct part, is, at the election of the hospital in the application referred to in section 1861(ww)(1)(E)—

''(1) the reasonable costs of providing such services, without regard to the amount of the customary or other charge, or

''(2) the amount of payment provided for under the prospective payment system for inpatient hospital services under section 1886(d).''.

(B) OUTPATIENT SERVICES.—Section 1834 (42 U.S.C. 1395m) is amended by amended by adding at the end the following new subsection:

''(n) PAYMENT FOR OUTPATIENT SERVICES FURNISHED IN RURAL COMMUNITY HOSPITALS.—The amount of payment under this part for outpatient services furnished in a rural community hospital is, at the election of the hospital in the application referred to in section 1861(ww)(1)(E)—

''(1) the reasonable costs of providing such services, without regard to the amount of the customary or other charge and any limitation under section 1861(v)(1)(U), or

''(2) the amount of payment provided for under the prospective payment system for covered OPD services under section 1833(t).''.

(C) HOME HEALTH SERVICES.—

(i) EXCLUSION FROM HOME HEALTH PPS.—Section 1895 (42 U.S.C. 1395fff) is amended by adding at the end the following:

''(f) EXCLUSION.—

''(1) IN GENERAL.—In determining payments under this title for home health services furnished on or after October 1, 2003, by a qualified RCH-based home health agency (as defined in paragraph (2))—

''(A) the agency may make a one-time election to waive application of the prospective payment system established under this section to such services furnished by the agency shall not apply; and

''(B) in the case of such an election, payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services or the limitations established under paragraph (1)(L) of such section.

''(2) QUALIFIED RCH-BASED HOME HEALTH AGENCY DEFINED.—For purposes of paragraph (1), a 'qualified RCH-based home health agency' is a home health agency that is a provider-based entity (as defined in section 404 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106–554; Appendix F, 114 Stat. 2763A–506)) of a rural community hospital that is located—

''(A) in a county in which no main or branch office of another home health agency is located; or

''(B) at least 35 miles from any main or branch office of another home health agency.''.

(ii) CONFORMING CHANGES.—

(I) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended by inserting ''or with respect to services to which section 1895(f) applies'' after ''equipment'' in the matter preceding paragraph (1).

(II) PAYMENTS UNDER PART B.—Section 1833(a)(2)(A) (42 U.S.C. 13951(a)(2)(A)) is amended by striking ''the prospective payment system under''.

(III) PER VISIT LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended by inserting ''(other than by a qualified RCH-based home health agency (as defined in section 1895(f)(2))'' after ''with respect to services furnished by home health agencies''.

(iii) CONSOLIDATED BILLING.—

(I) RECIPIENT OF PAYMENT.—Section 1842(b)(6)(F) (42 U.S.C. 1395u(b)(6)(F)) is amended by inserting ''and excluding home health services to which section 1895(f) applies'' after ''provided for in such section''.

(II) EXCEPTION TO EXCLUSION FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended by inserting before the period at the end of the second sentence the following: ''and paragraph (21) shall not apply to home health services to which section 1895(f) applies''.

(D) RETURN ON EQUITY.—Section 1861(v)(1)(P) (42 U.S.C. 1395x(v)(1)(P)) is amended—

(i) by inserting ''(i)'' after ''(P)''; and

(ii) by adding at the end the following:

''(ii)(I) Notwithstanding clause (i), subparagraph (S)(i), and section 1886(g)(2), such regulations shall provide, in determining the reasonable costs of the services described in subclause (II) furnished by a rural community hospital on or after October 1, 2003, for payment of a return on equity capital at a rate of return equal to 150 percent of the average specified in clause (i).

''(11) The services referred to in subelause (I) are inpatient hospital services, outpatient hospital services, home health services furnished by an RCH-based home health agency (as defined in section 1895(f)(2)), and ambulance services.

''(III) Payment under this clause shall be made without regard to whether a provider is a proprietary provider.''.

(E) EXEMPTION FROM 30 PERCENT REDUCTION IN REIMBURSEMENT FOR BAD DEBT.—Section 1861(v)(1)(T) (42 U.S.C.1395x(v)(1)(T)) is amended by inserting ''(other than a rural community hospital)'' after ''In determining such reasonable costs for hospitals''.

(3) BENEFICIARY COST-SHARING FOR OUTPATIENT SERVICES.—Section 1834(n) (as added by paragraph (2)(B)) is amended—

(A) by inserting ''(1)'' after ''(n)''; and

(B) by adding at the end the following:

''(2) The amounts of beneficiary cost-sharing for outpatient services furnished in a rural community hospital under this part shall be as follows:

''(A) For items and services that would have been paid under section 1833(t) if provided by a hospital, the amount of cost-sharing determined under paragraph (8) of such section.

''(B) For items and services that would have been paid under section 1833(h) if furnished by a provider or supplier, no cost-sharing shall apply.

''(C) For all other items and services, the amount of cost-sharing that would apply to the item or service under the methodology that would be used to determine payment for such item or service if provided by a physician, provider, or supplier, as the case may be.''.

(4) CONFORMING AMENDMENTS.—

(A) PART A PAYMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended by inserting ''other than inpatient hospital services furnished by a rural community hospital,'' after ''critical access hospital services,''.

(B) PART B PAYMENT.—

(i) IN GENERAL.—Section 1833(a) (42 U.S.C. 13951(a)) is amended—

(I) in paragraph (2), in the matter before subparagraph (A), by striking ''and (I)'' and inserting ''(I), and (K)'';

(II) by striking ''and'' at the end of paragraph (8);

(III) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(IV) by adding at the end the following:

''(10) in the case of outpatient services furnished by a rural community hospital, the amounts described in section 1834(n).''.

(ii) AMBULANCE SERVICES.—Section 1834(l)(8) (42 U.S.C. 1395m(1)(8)), as added by section 205 (a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–463), as enacted into law by section 1(a)(6) of Public Law 106–554, is amended—

(I) in the heading, by striking ''CRITICAL ACCESS HOSPITALS'' and inserting ''CERTAIN FACILITIES'';

(II) by striking ''or'' at the end of subparagraph (A);

(III) by redesignating subparagraph (B) as subparagraph (C);

(IV) by inserting after subparagraph (A) the following new subparagraph:

''(B) by a rural community hospital (as defined in section 1861(ww)(1)), or''; and (V) in subparagraph (C), as so redesignated, by inserting ''or a rural community hospital'' after ''critical access hospital''.

(C) TECHNICAL AMENDMENTS.—

(1) CONSULTATION WITH STATE AGENCIES.—Section 1863 (42 U.S.C. 1395z) is amended by striking ''and (dd)(2)'' and inserting ''(dd)(2), (mm)(1), and (ww)(1)''.

(ii) PROVIDER AGREEMENTS.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting ''section 1834(n)(2),'' after ''section 1833(b),''.

(iii) BIPA AMENDMENT.—Paragraph (8) of section 1834(1) (42 U.S.C. 1395m(1)), as added by section 221 (a) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–486), as enacted into law by section 1(a)(6) of Public Law 106–554, is redesignated as paragraph (9).

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after October 1, 2003.

(b) REMOVING BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS BY RCH AND CAH FACILITIES.—

(1) IN GENERAL.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended by striking ''a distinct part of the hospital (as defined by the Secretary)'' in the matter following clause (v) and inserting ''a distinct part (as defined by the Secretary) of the hospital or of a critical access hospital or a rural community hospital''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to determinations with respect to distinct part unit status that are made on or after October 1, 2003.

(c) IMPROVEMENTS TO MEDICARE CRITICAL ACCESS HOSPITAL (CAH) PROGRAM.—

(1) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—Section 1820(c)(2) (42 U.S.C. 1395i–4(c)(2)) is amended by adding at the end the following:

''(E) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—In determining the number of beds of a facility for purposes of applying the bed limitations referred to in subparagraph (B)(iii) and subsection (f), the Secretary shall not take into account any bed of a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of section 1886(d)(1)(B)) of the facility, except that the total number of beds that are not taken into account pursuant to this subparagraph with respect to a facility shall not exceed 10.''.

(2) PAYMENTS TO HOME HEALTH AGENCIES OWNED AND OPERATED BY A CAH.—Section 1895(f) (42 U.S.C. 1395fff(f)), as added by subsection (a)(2)(C), is further amended by inserting ''or by a home health agency that is owned and operated by a critical access hospital (as defined in section 1861(mm)(1))'' after ''as defined in paragraph (2))''.

(3) PAYMENTS TO CAH-OWNED SNFS.—

(A) IN GENERAL.—Section 1888(e)(42 U.S.C. 1395yy(e)) is amended—

(i) in paragraph (1), by striking ''and (12)'' and inserting ''(12), and (13)''; and

(ii) by adding at the end thereof the following:

''(13) EXEMPTION OF CAH FACILITIES FROM PPS.—In determining payments under this part for covered skilled nursing facility services furnished on or after October 1, 2003, by a skilled nursing facility that is a distinct part unit of a critical access hospital (as defined in section 1861(mm)(1)) or is owned and operated by a critical access hospital—

''(A) the prospective payment system established under this subsection shall not apply; and

''(B) payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services or the limitations established under subsection (a).''.

(B) CONFORMING CHANGES.—

(i) IN GENERAL.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by subsection (a), is further amended in the matter preceding paragraph (1)—

(I) by inserting ''other than a skilled nursing facility providing covered skilled nursing facility services (as defined in section 1888(e)(2)) or post hospital extended care services to which section 1888(e)(13) applies,'' after ''inpatient critical access hospital services''; and

(II) by striking ''1813 1886,'' and inserting ''1813, 1886, 1888,''.

(i) CONSOLIDATED BILLING.—

(I) RECIPIENT OF PAYMENT.—Section 1842(b)(6)(E) (42 U.S.C. 1395u(b)(6)(E)) is amended by inserting ''services to which paragraph (7)(C) or (13) of section 1888(e) applies and'' after ''other than''.

(II) EXCEPTION TO EXCLUSION FROM COVERAGE.—Section 1862(a)(18) (42 U.S.C. 1395y(a)(18)) is amended by inserting ''(other than services to which paragraph (7)(C) or (13) of section 1888(e) applies)'' after ''section 1888(e)(2)(A)(i)''.

(4) PAYMENTS TO DISTINCT PART PSYCHIATRIC OR REHABILITATION UNITS OF CAHS.—Section 1886(b) (42 U.S.C. 1395ww(b)) is amended—

(A) in paragraph (1), by inserting '', other than a distinct part psychiatric or rehabilitation unit to which paragraph (8) applies,'' after ''subsection (d)(1)(B)''; and

(B) by adding at the end the following:

''(8) EXEMPTION OF CERTAIN DISTINCT PART PSYCHIATRIC OR REHABILITATION UNITS FROM COST LIMITS.—In determining payments under this part for inpatient hospital services furnished on or after October 1, 2003, by a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of subsection (d)(1)(B)) of a critical access hospital (as defined in section 1861(mm)(1))—

''(A) the limits imposed under the preceding paragraphs of this subsection shall not apply; and

''(B) payment shall be made on the basis of the reasonable costs incurred in furnishing such services as determined under section 1861(v), but without regard to the amount of the customary or other charges with respect to such services.''.

(5) RETURN ON EQUITY.—Section 1861(v)(1)(P) (42 U.S.C. 1395x(v)(1)(P)), as amended by subsection (a)(2)(D), is further amended by adding at the end the following:

''(111)(I) Notwithstanding clause (i), subparagraph (S)(i), and section 1886(8)(2), such regulations shall provide, in determining the reasonable costs of the services described in subclause (II) furnished by a critical access hospital on or after October 1, 2003, for payment of a return on equity capital at a rate of return equal to 150 percent of the average specified in clause (i).

''(II) The services referred to in subclause (I) are inpatient critical access hospital services (as defined in section 1861(mm)(2)), outpatient critical access hospital services (as defined in section 1861(mm)(3)), extended care services provided pursuant to an agreement under section 1883, posthospital extended care services to which section 1888(e)(13) applies, home health services to which section 1895(f) applies, ambulance services to which section 1834(l) applies, and inpatient hospital services to which section 1886(b)(8) applies.

''(III) Payment under this clause shall be made without regard to whether a provider is a proprietary provider.''.

(6) TECHNICAL CORRECTIONS.—

(A) SECTION 403(b) OF BBRA 1999.—Section 1820(b)(2) (42 U.S.C. 1395i–4(b)(2)) is amended by striking ''nonprofit or public hospitals'' and inserting ''hospitals''.

(B) SECTION 203(b) OF BIPA 2000.—Section 1883(a)(3) (42 U.S.C. 1395tt(a)(3)) is amended—

(i) by inserting ''section 1861(v)(1)(G) or'' after ''Notwithstanding''; and

(ii) by striking ''covered skilled nursing facility''.

(9) EFFECTIVE DATES.—

(A) ELIMINATION OF REQUIREMENTS.—

The amendments made by paragraphs (1) and (2) shall apply to services furnished on or after October 1, 2003.

(B) TECHNICAL CORRECTIONS.—

(i) BBRA.—The amendment made by paragraph (6)(A) shall be effective as if included in the enactment of section 403(b) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113.

(ii) BIPA.—The amendments made by paragraph (6)(B) shall be effective as if included in the enactment of section 203(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Appendix F, 114 Stat. 2763A–463), as enacted into law by section 1(a)(6) of Public Law 106–554.

SA 1004. Mrs. HUTCHISON 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 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 years 2003, 2004, 2005, 2006, 2007 and 2008, 'c' is equal to 1.35; and

''(VIII) on or after October 1, 2008, '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''.

SA 1005. Mr. SANTORUM 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 C of title II, add the following:

SEC. ___. EXTENSION OF PHASE-IN OF NEW RISK ADJUSTER.

(a) UNDER MEDICARE+CHOICE.—Section 1853(a)(3)(C)(ii) is amended—

(1) in subclause (I), by striking ''2003'' and inserting ''2005'';

(2) in subclause (II), by striking ''2004'' and inserting ''2006'';

(3) in subclause (III), by striking ''2005'' and inserting ''2007'';

(4) in subclause (IV), by striking ''2006'' and inserting ''2008''; and

(5) in subclause (V), by striking ''2007'' and inserting ''2009''.

(b) UNDER MEDICAREADVANTAGE.—Section 1853(a)(3)(A) (42 U.S.C. 1395w–23(a)(3)(A)), as amended by section 203, is amended to read as follows:

''(A) APPLICATION OF METHODOLOGY.—

''(i) IN GENERAL.—The Secretary shall apply the comprehensive risk adjustment methodology described in subparagraph (B) to the applicable percentage of the amount of payments to plans under subsection (d)(4)(B).

''(ii) APPLICABLE PERCENTAGE DEFINED.—For purposes of clause (i), the term 'applicable percentage' means—

''(II) for 2006, 30 percent;

''(III) for 2007, 50 percent;

''(IV) for 2008, 75; and

''(V) for 2009 and each subsequent year, 100 percent.''.

(c) EFFECTIVE DATES.—The amendments made—

(1) by subsection (a) shall take effect on the date of enactment of this Act; and

(2) by subsection (b) shall apply to plan years beginning on or after January 1, 2006.

SA 1006. Mr. SANTORUM 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 C of title II, add the following:

SEC. ___. REVISION OF REQUIREMENTS FOR REVIEW OF MARKETING MATERIALS.

(a) UNDER MEDICARE+CHOICE AND MEDICAREADVANTAGE.—Section 1851(h) (42 U.S.C. 1395w–21(h)) is amended—

(1) in paragraph (1)(A), by striking ''45 days (or 10 days in the case described in paragraph (5))'' and inserting ''30 days (or 10 days in the case described in paragraph (5) or if the Medicare+Choice organization has submitted to the Secretary requested corrections following review of the submitted material)''; and

(2) by striking paragraph (2) and inserting the following new paragraph:

''(2) REVIEW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the standards established under section 1856 shall include guidelines for the review of any material or form submitted and under such guidelines the Secretary shall disapprove (or later require the correction of) such material or form if the material or form is materially inaccurate or misleading or otherwise makes a material misrepresentation.

''(B) EXCEPTION.—Notwithstanding any other requirements of section 1856(h), the Secretary shall establish policies that permit, under appropriate circumstances, the distribution of marketing materials by a Medicare+Choice organization prior to review.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h)) as in effect on such date and as amended by section 201.

SA 1007. Mr. SANTORUM 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 C of title II, add the following:

SEC. ___. AUTHORIZATION OF DIRECT PAYMENTS TO PROVIDERS FOR SERVICES PROVIDED TO MEDICARE ADVANTAGE ENROLLEES PARTICIPATING IN MEDICARE COVERED CLINICAL TRIALS.

(a) UNDER MEDICARE+CHOICE AND MEDICAREADVANTAGE.—

(1) IN GENERAL.—Section 1852(a)(1)(A) (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ''and items and services that are covered under part A or B as a result of a national coverage determination for qualifying clinical trials'' after ''hospice care''.

(2) PAYMENT.—Section 1853 (42 U.S.C. 1395w–23) is amended by adding at the end the following new subsection:

''(j) SPECIAL RULE FOR COVERED COSTS ASSOCIATED WITH QUALIFYING CLINICAL TRIALS.—

''(1) INFORMATION.—The Medicare+Choice organization shall inform each individual enrolled under this part with a Medicare+Choice plan offered by the organization that the medicare program covers certain costs associated with the participation by a medicare beneficiary in a qualifying clinical trial.

''(2) PAYMENT.—If an individual who is enrolled with a Medicare+Choice organization under this part participates in a qualifying clinical trial, payment for the medicare covered costs associated with that clinical trial shall be made by the Secretary directly to the provider or supplier furnishing such services.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to sections 1852 and 1853 of the Social Security Act (42 U.S.C. 1395w–22 and 1395w–23) as in effect on such date and as amended by sections 202 and 203.

SA 1008. Mr. SANTORUM 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 134, between lines 9 and 10, insert the following:

''(d) ZERO PREMIUM STOP-LOSS PROTECTION AND ACCESS TO NEGOTIATED PRICES FOR CERTAIN ELIGIBLE BENEFICIARIES ENROLLED IN THE ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM AFTER 2013.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this part, the following rules shall apply with respect to an applicable eligible beneficiary enrolled in a Medicare Prescription Drug plan or under a contract under section 1860D–13(e):

''(A) NO PREMIUM.—Notwithstanding sections 1860D–13(e)(2) and 1860D–17, the monthly beneficiary obligation for enrollment in the Medicare Prescription Drug plan or under a contract under section 1860D–13(e) shall be zero.

''(B) BENEFICIARY RECEIVES ACCESS TO NEGOTIATED PRICES AND STOP-LOSS PROTECTION FOR NO ADDITIONAL PREMIUM.—Notwithstanding section 1860D–6, qualified prescription drug coverage shall include coverage of covered drugs that meets the following requirements:

''(i) The coverage has cost-sharing (for costs up to the annual out-of-pocket limit under subsection (c)(4) of such section) that is equal to 100 percent.

''(ii) The coverage provides the limitation on out-of-pocket expenditures under such subsection (c)(4).

''(ii) The coverage provides access to negotiated prices under subsection (e) of such section during the entire year.

''(C) APPLICATION OF LOW-INCOME SUBSIDIES.—Notwithstanding section 1860D–19, the Administrator shall not apply the following provisions of subsection (a) of such section:

''(i) Subparagraphs (A), (B), (C), and (D) of paragraph (1).

''(ii) Subparagraphs (A), (B), (C), and (D) of paragraph (2).

''(iii) Clauses (i), (ii), (iii), and (iv) of paragraph (3)(A).

''(2) APPLICABLE ELIGIBLE BENEFICIARY.—For purposes of this subsection, the term 'applicable eligible beneficiary' means an eligible beneficiary who—

''(A) is enrolled under this part; and

''(B) became an eligible beneficiary for the first time on or after January 1, 2014.

''(3) PROCEDURES.—The Administrator shall establish procedures to carry out this subsection. Under such procedures, the Administrator may waive or modify any of the preceding provisions of this part to the extent necessary to carry out this subsection.

''(4) NO EFFECT ON BENEFICIARIES ENROLLED IN A MEDICAREADVANTAGE PLAN THAT PROVIDES QUALIFIED PRESCRIPTION DRUG COVERAGE.—This subsection shall have no effect on eligible beneficiaries enrolled in this part and under a MedicareAdvantage plan that provides qualified prescription drug coverage.''.

SA 1009. Mr. INOUYE (for himself and Mr. AKAKA) 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 VI, add the following:

SEC. ___. 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.

SA 1010. Mr. SUNUNU 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:

At the end of subtitle B of title IV, add the following:

SEC. ___. IMPROVEMENT OF OUTPATIENT VISION SERVICES UNDER PART B.

(a) COVERAGE UNDER PART B.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (U), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (V)(iii), by adding ''and'' after the semicolon at the end; and

(3) by adding at the end the following new subparagraph:

''(W) vision rehabilitation services (as defined in subsection (ww)(1));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Vision Rehabilitation Services; Vision Rehabilitation Professional

''(ww)(1)(A) The term 'vision rehabilitation services' means rehabilitative services (as determined by the Secretary in regulations) furnished—

''(i) to an individual diagnosed with a vision impairment (as defined in paragraph (6));

''(ii) pursuant to a plan of care established by a qualified physician (as defined in subparagraph (C)) or by a qualified occupational therapist that is periodically reviewed by a qualified physician;

''(iii) in an appropriate setting (including the home of the individual receiving such services if specified in the plan of care); and

''(iv) by any of the following individuals:

''(I) A qualified physician.

''(II) A qualified occupational therapist.

''(III) A vision rehabilitation professional (as defined in paragraph (2)) while under the general supervision (as defined in subparagraph (D)) of a qualified physician.

''(B) In the case of vision rehabilitation services furnished by a vision rehabilitation professional, the plan of care may only be established and reviewed by a qualified physician.

''(C) The term 'qualified physician' means—

''(i) a physician (as defined in subsection (r)(1)) who is an ophthalmologist; or

''(ii) a physician (as defined in subsection (r)(4) (relating to a doctor of optometry)).

''(D) The term 'general supervision' means, with respect to a vision rehabilitation professional, overall direction and control of that professional by the qualified physician who established the plan of care for the individual, but the presence of the qualified physician is not required during the furnishing of vision rehabilitation services by that professional to the individual.

''(2) The term 'vision rehabilitation professional' means any of the following individuals:

''(A) An orientation and mobility specialist (as defined in paragraph (3)).

''(B) A rehabilitation teacher (as defined in paragraph (4)).

''(C) A low vision therapist (as defined in paragraph (5)).

''(3) The term 'orientation and mobility specialist' means an individual who—

''(A) if a State requires licensure or certification of orientation and mobility specialists, is licensed or certified by that State as an orientation and mobility specialist;

''(B)(i) holds a baccalaureate or higher degree from an accredited college or university in the United States (or an equivalent foreign degree) with a concentration in orientation and mobility; and

''(ii) has successfully completed 350 hours of clinical practicum under the supervision of an orientation and mobility specialist and has furnished not less than 9 months of supervised full-time orientation and mobility services;

''(C) has successfully completed the national examination in orientation and mobility administered by the Academy for Certification of Vision Rehabilitation and Education Professionals; and

''(D) meets such other criteria as the Secretary establishes.

''(4) The term 'rehabilitation teacher' means an individual who—

''(A) if a State requires licensure or certification of rehabilitation teachers, is licensed or certified by the State as a rehabilitation teacher;

''(B)(i) holds a baccalaureate or higher degree from an accredited college or university in the United States (or an equivalent foreign degree) with a concentration in rehabilitation teaching, or holds such a degree in a health field; and

''(ii) has successfully completed 350 hours of clinical practicum under the supervision of a rehabilitation teacher and has furnished not less than 9 months of supervised full-time rehabilitation teaching services;

''(C) has successfully completed the national examination in rehabilitation teaching administered by the Academy for Certification of Vision Rehabilitation and Education Professionals; and

''(D) meets such other criteria as the Secretary establishes.

''(5) The term 'low vision therapist' means an individual who—

''(A) if a State requires licensure or certification of low vision therapists, is licensed or certified by the State as a low vision therapist;

''(B)(i) holds a baccalaureate or higher degree from an accredited college or university in the United States (or an equivalent foreign degree) with a concentration in low vision therapy, or holds such a degree in a health field; and

''(ii) has successfully completed 350 hours of clinical practicum under the supervision of a physician, and has furnished not less than 9 months of supervised full-time low vision therapy services;

''(C) has successfully completed the national examination in low vision therapy administered by the Academy for Certification of Vision Rehabilitation and Education Professionals; and

''(D) meets such other criteria as the Secretary establishes.

''(6) The term 'vision impairment' means vision loss that constitutes a significant limitation of visual capability resulting from disease, trauma, or a congenital or degenerative condition that cannot be corrected by conventional means, including refractive correction, medication, or surgery, and that is manifested by 1 or more of the following:

''(A) Best corrected visual acuity of less than 20/60, or significant central field defect.

''(B) Significant peripheral field defect including homonymous or heteronymous bilateral visual field defect or generalized contraction or constriction of field.

''(C) Reduced peak contrast sensitivity in conjunction with a condition described in subparagraph (A) or (B).

''(D) Such other diagnoses, indications, or other manifestations as the Secretary may determine to be appropriate.''.

(c) PAYMENT UNDER PART B.—

(1) PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(W),'' after ''(2)(S),''.

(2) CARVE OUT FROM HOSPITAL OUTPATIENT DEPARTMENT PROSPECTIVE PAYMENT SYSTEM.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by inserting ''vision rehabilitation services (as defined in section 1861(ww)(1)) or'' after ''does not include''.

(3) CLARIFICATION OF BILLING REQUIREMENTS.—The first sentence of section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking ''and'' before ''(G)''; and

(B) by inserting before the period the following: '', and (H) in the case of vision rehabilitation services (as defined in section 1861(ww)(1)) furnished by a vision rehabilitation professional (as defined in section 1861(ww)(2)) while under the general supervision (as defined in section 1861(ww)(1)(D)) of a qualified physician (as defined in section 1861(ww)(1)(C)), payment shall be made to (i) the qualified physician or (ii) the facility (such as a rehabilitation agency, a clinic, or other facility) through which such services are furnished under the plan of care if there is a contractual arrangement between the vision rehabilitation professional and the facility under which the facility submits the bill for such services''.

(d) PLAN OF CARE.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) 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 inserting after subparagraph (F) the following new subparagraph:

''(G) in the case of vision rehabilitation services, (i) such services are or were required because the individual needed vision rehabilitation services, (ii) an individualized, written plan for furnishing such services has been established (I) by a qualified physician (as defined in section 1861(ww)(1)(C)), (II) by a qualified occupational therapist, or (III) in the case of such services furnished by a vision rehabilitation professional, by a qualified physician, (iii) the plan is periodically reviewed by the qualified physician, and (iv) such services are or were furnished while the individual is or was under the care of the qualified physician.''.

(e) RELATIONSHIP TO REHABILITATION ACT OF 1973.—The provision of vision rehabilitation services under the medicare program under title XVIII (42 U.S.C. 1395 et seq.) shall not be taken into account for any purpose under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(f) EFFECTIVE DATE.—

(1) INTERIM, FINAL REGULATIONS.—The Secretary shall publish a rule under this section in the Federal Register by not later than 180 days after the date of enactment of this Act to carry out the provisions of this section. Such rule shall be effective and final immediately on an interim basis, but is subject to change and revision after public notice and opportunity for a period for public comment of not less than 60 days.

(2) CONSULTATION.—The Secretary shall consult with the National Vision Rehabilitation Cooperative, the Association for Education and Rehabilitation of the Blind and Visually Impaired, the Academy for Certification of Vision Rehabilitation and Education Professionals, the American Academy of Ophthalmology, the American Occupational Therapy Association, the American Optometric Association, and such other qualified professional and consumer organizations as the Secretary determines appropriate in promulgating regulations to carry out this section.

SA 1011. Mr. SESSIONS 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:

Strike section 605 and insert the following:

SEC. 605. SENSE OF THE SENATE REGARDING HEALTH INSURANCE COVERAGE OF LEGAL IMMIGRANTS UNDER MEDICAID AND SCHIP.

FINDINGS.—The Senate makes the following findings:

(1) In 1996, in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105)(commonly referred to as the ''welfare

reform Act''), Congress deliberately limited the Federal public benefits available to legal immigrants.

(2) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 allows a State the option of electing to offer permanent resident legal aliens that have been living in the United States for at least 5 years the same benefits that their State citizens receive under the temporary assistance for needy families program (commonly referred to as ''TANF'') and the medicaid program.

(3) As of the date of enactment of this Act, 22 States have elected to give the permanent resident legal aliens who reside in their States the same TANF and medicaid benefits as the States provide to the citizens of their States.

(4) This Act, the Prescription Drug and Medicare Improvement Act of 2003, is not a welfare or medicaid reform bill, but rather is a package of improvements for the medicare program that is designed to provide greater access to health care for America's seniors.

(5) The section heading for 605 of this Act as reported out of the Committee on Finance, was titled ''Assistance with Coverage of Legal Immigrants under the medicaid program and SCHIP,'' and, as reported, related directly to the provision of benefits under the medicaid and State children's health insurance programs, not to benefits provided under the medicare program.

(6) The reported version of section 605 would have directly overturned the reforms made in the 1996 welfare reform Act.

(7) The reported version of section 605 would have greatly expanded the number of individuals who could receive benefits under medicaid and SCHIP.

(8) No hearings have been held in the Committee on Finance of the Senate concerning why the 5-year residency requirement for legal aliens to obtain a Federal public benefit established in the welfare reform Act needs to be overturned or why the reported version of section 605 should be included in a medicare reform package.

(9) Congress must reauthorize the temporary assistance for needy families program later this year and should hold hearings regarding whether the 5-year residency requirement for legal aliens to obtain a Federal public benefit should be overturned as part of the reauthorization of that program.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should hold hearings in connection with the reauthorization of the temporary assistance for needy families program, or in connection with reform of the medicaid program, regarding whether the 5-year residency requirement for legal aliens to obtain a Federal public benefit that was established in the 1996 welfare reform Act should be overturned for purposes of the medicaid and State children's health insurance programs.

SA 1012. Mr. HAGEL (for himself and Mr. ENSIGN) 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:

Title I is amended by adding at the end the following:

Subtitle E—Voluntary Medicare Prescription Drug Discount and Security Program

SEC. 141. VOLUNTARY MEDICARE PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by section 101, is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following new part:

''PART E—VOLUNTARY MEDICARE PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM

''DEFINITIONS

''SEC. 1860E. In this part:

''(1) COVERED DRUG.—

''(A) IN GENERAL.—Except as provided in this paragraph, the term 'covered drug' means—

''(i) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

''(ii) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered drug for a medically accepted indication (as defined in section 1927(k)(6)).

''(B) EXCLUSIONS.—

''(i) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

''(ii) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

''(C) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860E–4(a)(4)(B).

''(D) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—A prescription drug discount card plan or MedicareAdvantage plan may exclude from qualified prescription drug coverage any covered drug—

''(i) for which payment would not be made if section 1862(a) applied to part E; or

''(ii) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860E–4(a)(4).

''(2) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual who is—

''(A) eligible for benefits under part A or enrolled under part B; and

''(B) not eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means any—

''(A) pharmaceutical benefit management company;

''(B) wholesale pharmacy delivery system;

''(C) retail pharmacy delivery system;

''(D) insurer (including any issuer of a medicare supplemental policy under section 1882);

''(E) MedicareAdvantage organization;

''(F) State (in conjunction with a pharmaceutical benefit management company);

''(G) employer-sponsored plan;

''(H) other entity that the Secretary determines to be appropriate to provide benefits under this part; or

''(I) combination of the entities described in subparagraphs (A) through (H).

''(4) POVERTY LINE.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services.

''ESTABLISHMENT OF PROGRAM

''SEC. 1860E–1. (a) PROVISION OF BENEFIT.—The Secretary shall establish a Medicare Prescription Drug Discount and Security Program under which the Secretary endorses prescription drug card plans offered by eligible entities in which eligible beneficiaries may voluntarily enroll and receive benefits under this part. Notwithstanding any other provision of this title, an eligible beneficiary may elect to enroll in the program under this part in lieu of the program established under part D. An eligible beneficiary may not be enrolled under both this part and part D.

''(b) ENDORSEMENT OF PRESCRIPTION DRUG DISCOUNT CARD PLANS.—

''(1) IN GENERAL.—The Secretary shall endorse a prescription drug card plan offered by an eligible entity with a contract under this part if the eligible entity meets the requirements of this part with respect to that plan.

''(2) NATIONAL PLANS.—In addition to other types of plans, the Secretary may endorse national prescription drug plans under paragraph (1).

''(c) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

''(d) FINANCING.—The costs of providing benefits under this part shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

''ENROLLMENT

''SEC. 1860E–2. (a) ENROLLMENT UNDER PART E.—

''(1) ESTABLISHMENT OF PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a MedicareAdvantage plan offered by a MedicareAdvantage organization) may make an election to enroll under this part. Except as otherwise provided in this subsection, such process shall be similar to the process for enrollment under part B under section 1837.

''(B) REQUIREMENT OF ENROLLMENT.—An eligible beneficiary must enroll under this part in order to be eligible to receive the benefits under this part.

''(2) ENROLLMENT PERIODS.—

''(A) IN GENERAL.—Except as provided in this paragraph, an eligible beneficiary may not enroll in the program under this part during any period after the beneficiary's initial enrollment period under part B (as determined under section 1837).

''(B) SPECIAL ENROLLMENT PERIOD.—In the case of eligible beneficiaries that have recently lost eligibility for prescription drug coverage under a State plan under the medicaid program under title XIX, the Secretary shall establish a special enrollment period in

which such beneficiaries may enroll under this part.

''(C) OPEN ENROLLMENT PERIOD IN 2005 FOR CURRENT BENEFICIARIES.—The Secretary shall establish a period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may—

''(i) enroll under this part; or

''(ii) enroll or reenroll under this part after having previously declined or terminated such enrollment.

''(3) PERIOD OF COVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to subparagraph (C), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided under section 1838, as if that section applied to the program under this part.

''(B) ENROLLMENT DURING OPEN AND SPECIAL ENROLLMENT.—Subject to subparagraph (C), an eligible beneficiary who enrolls under the program under this part under subparagraph (B) or (C) of paragraph (2) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(4) PART E COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B OR ELIGIBILITY FOR MEDICAL ASSISTANCE.—

''(A) IN GENERAL.—In addition to the causes of termination specified in section 1838, the Secretary shall terminate an individual's coverage under this part if the individual is—

''(i) no longer enrolled in part A or B; or

''(ii) eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

''(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of—

''(i) the termination of coverage under part A or (if later) under part B; or

''(ii) the coverage under title XIX.

''(b) ENROLLMENT WITH ELIGIBLE ENTITY.—

''(1) PROCESS.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part shall make an annual election to enroll in a prescription drug card plan offered by an eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides.

''(2) ELECTION PERIODS.—

''(A) IN GENERAL.—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the MedicareAdvantage program under section 1851(e), including—

''(i) annual coordinated election periods; and

''(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a MedicareAdvantage election during the first year of eligibility) under this subparagraph, in the case of an election described in such section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug card plan under this part at the time of the election of coverage under the original fee-for-service plan.

''(B) INITIAL ELECTION PERIODS.—

''(i) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2005, there shall be an initial election period of 6 months beginning on that date.

''(ii) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

''(C) ADDITIONAL SPECIAL ELECTION PERIODS.—The Administrator shall establish special election periods—

''(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in paragraph (3);

''(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B; and

''(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Secretary may provide.

''(D) ENROLLMENT WITH ONE PLAN ONLY.—The rules established under subparagraph (B) shall ensure that an eligible beneficiary may only enroll in 1 prescription drug card plan offered by an eligible entity per year.

''(3) MEDICAREADVANTAGE ENROLLEES.—An eligible beneficiary who is enrolled under this part and enrolled in a MedicareAdvantage plan offered by a MedicareAdvantage organization must enroll in a prescription drug discount card plan offered by an eligible entity in order to receive benefits under this part. The beneficiary may elect to receive such benefits through the MedicareAdvantage organization in which the beneficiary is enrolled if the organization has been awarded a contract under this part.

''(4) CONTINUOUS PRESCRIPTION DRUG COVERAGE.—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

''(A) COVERAGE UNDER PRESCRIPTION DRUG CARD PLAN OR MEDICAREADVANTAGE PLAN.—Prescription drug coverage under a prescription drug card plan under this part or under a MedicareAdvantage plan.

''(B) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a MedicareAdvantage project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(C) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined by the Secretary), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

''(D) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)) and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

''(E) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

''(F) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code of 1986 shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in this paragraph.

''(5) COMPETITION.—Each eligible entity with a contract under this part shall compete for the enrollment of beneficiaries in a prescription drug card plan offered by the entity on the basis of discounts, formularies, pharmacy networks, and other services provided for under the contract.

''PROVIDING ENROLLMENT AND COVERAGE INFORMATION TO BENEFICIARIES

''SEC. 1860E–3. (a) ACTIVITIES.—The Secretary shall provide for activities under this part to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding enrollment under this part and the prescription drug card plans offered by eligible entities with a contract under this part.

''(b) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in subsection (a) shall ensure that eligible beneficiaries are provided with such information at least 60 days prior to the first enrollment period described in section 1860E–2(c).

''ENROLLEE PROTECTIONS

''SEC. 1860E–4. (a) REQUIREMENTS FOR ALL ELIGIBLE ENTITIES.—Each eligible entity shall meet the following requirements:

''(1) GUARANTEED ISSUANCE AND NONDISCRIMINATION.—

''(A) GUARANTEED ISSUANCE.—

''(i) IN GENERAL.—An eligible beneficiary who is eligible to enroll in a prescription drug card plan offered by an eligible entity under section 1860E–2(b) for prescription drug coverage under this part at a time during which elections are accepted under this part with respect to the coverage shall not be denied enrollment based on any health status-related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

''(ii) MEDICAREADVANTAGE LIMITATIONS PERMITTED.—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to eligible entities under this subsection.

''(B) NONDISCRIMINATION.—An eligible entity offering prescription drug coverage under this part shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

''(2) DISCLOSURE OF INFORMATION.—

''(A) INFORMATION.—

''(i) GENERAL INFORMATION.—Each eligible entity with a contract under this part to provide a prescription drug card plan shall disclose, in a clear, accurate, and standardized form to each eligible beneficiary enrolled in a prescription drug discount card program offered by such entity under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such prescription drug coverage.

''(ii) SPECIFIC INFORMATION.—In addition to the information described in clause (i), each eligible entity with a contract under this part shall disclose the following:

''(I) How enrollees will have access to covered drugs, including access to such drugs through pharmacy networks.

''(II) How any formulary used by the eligible entity functions.

''(III) Information on grievance and appeals procedures.

''(IV) Information on enrollment fees and prices charged to the enrollee for covered drugs.

''(V) Any other information that the Secretary determines is necessary to promote informed choices by eligible beneficiaries among eligible entities.

''(B) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an eligible beneficiary, the eligible entity shall provide the information described in paragraph (3) to such beneficiary.

''(C) RESPONSE TO BENEFICIARY QUESTIONS.—Each eligible entity offering a prescription drug discount card plan under this part shall have a mechanism for providing specific information to enrollees upon request. The entity shall make available, through an Internet website and, upon request, in writing, information on specific changes in its formulary.

''(3) GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.—

''(A) IN GENERAL.—With respect to the benefit under this part, each eligible entity offering a prescription drug discount card plan shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the eligible entity provides covered benefits) and enrollees with prescription drug card plans of the eligible entity under this part in accordance with section 1852(f).

''(B) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—Each eligible entity shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug card plan it offers under this part in the same manner as such requirements apply to a MedicareAdvantage organization with respect to benefits it offers under a MedicareAdvantage plan under part C.

''(C) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug card plan offered by an eligible entity that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(4) APPEALS.—

''(A) IN GENERAL.—Subject to subparagraph (B), each eligible entity offering a prescription drug card plan shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a MedicareAdvantage organization with respect to benefits it offers under a MedicareAdvantage plan under part C.

''(B) FORMULARY DETERMINATIONS.—An individual who is enrolled in a prescription drug card plan offered by an eligible entity may appeal to obtain coverage under this part for a covered drug that is not on a formulary of the eligible entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(5) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each eligible entity offering a prescription drug discount card plan shall meet the requirements of the Health Insurance Portability and Accountability Act of 1996.

''(b) ELIGIBLE ENTITIES OFFERING A DISCOUNT CARD PROGRAM.—If an eligible entity offers a discount card program under this part, in addition to the requirements under subsection (a), the entity shall meet the following requirements:

''(1) ACCESS TO COVERED BENEFITS.—

''(A) ASSURING PHARMACY ACCESS.—

''(i) IN GENERAL.—The eligible entity offering the prescription drug discount card plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Secretary and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860E–4(a)(3) that ensure such convenient access.

''(ii) USE OF POINT-OF-SERVICE SYSTEM.—Each eligible entity offering a prescription drug discount card plan shall establish an optional point-of-service method of operation under which—

''(I) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

''(II) discounts under the plan may not be available.

The additional copayments so charged shall not be counted as out-of-pocket expenses for purposes of section 1860E–6(b).

''(B) USE OF STANDARDIZED TECHNOLOGY.—

''(i) IN GENERAL.—Each eligible entity offering a prescription drug discount card plan shall issue (and reissue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860E–6(a) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug discount card plan.

''(ii) STANDARDS.—The Secretary shall provide for the development of national standards relating to a standardized format for the card or other technology referred to in clause (i). Such standards shall be compatible with standards established under part C of title XI.

''(C) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If an eligible entity that offers a prescription drug discount card plan uses a formulary, the following requirements must be met:

''(i) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least 1 physician and at least 1 pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a physician or a practicing pharmacist (or both).

''(ii) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

''(iii) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered drugs (although not necessarily for all drugs within such categories and classes).

''(iv) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

''(v) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

''(vi) GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.—For provisions relating to grievances and appeals of coverage, see paragraphs (3) and (4) of section 1860E–4(a).

''(2) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(A) IN GENERAL.—Each eligible entity offering a prescription drug discount card plan shall have in place with respect to covered drugs—

''(i) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate;

''(ii) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in subparagraph (B); and

''(iii) a program to control fraud, abuse, and waste.

Nothing in this section shall be construed as impairing an eligible entity from applying cost management tools (including differential payments) under all methods of operation.

''(B) MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(i) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is designed to ensure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered drugs under the prescription drug discount card plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(ii) ELEMENTS.—Such program may include—

''(I) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

''(II) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

''(III) detection of patterns of overuse and underuse of prescription drugs.

''(iii) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

''(iv) CONSIDERATIONS IN PHARMACY FEES.—Each eligible entity offering a prescription drug discount card plan shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(C) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug discount card plans under this part with respect to the following requirements, in the same manner as they apply to MedicareAdvantage plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

''(i) Paragraph (1) (including quality assurance), including any medication therapy management program under paragraph (2).

''(ii) Subsection (c)(1) (relating to access to covered benefits).

''(iii) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

''(D) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—Each eligible entity offering a prescription drug discount card plan shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost drug covered under the plan that is therapeutically equivalent and bioequivalent.

''ANNUAL ENROLLMENT FEE

''SEC. 1860E–5. (a) AMOUNT.—

''(1) IN GENERAL.—Except as provided in subsection (c), enrollment under the program under this part is conditioned upon payment of an annual enrollment fee of $25.

''(2) ANNUAL PERCENTAGE INCREASE.—

''(A) IN GENERAL.—In the case of any calendar year beginning after 2006, the dollar amount in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount; multiplied by

''(ii) the inflation adjustment.

''(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A)(ii), the inflation adjustment for any calendar year is the percentage (if any) by which—

''(i) the average per capita aggregate expenditures for covered drugs in the United States for medicare beneficiaries, as determined by the Secretary for the 12-month period ending in July of the previous year; exceeds

''(ii) such aggregate expenditures for the 12-month period ending with July 2005.

''(C) ROUNDING.—If any increase determined under clause (ii) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''(b) COLLECTION OF ANNUAL ENROLLMENT FEE.—

''(1) IN GENERAL.—Unless the eligible beneficiary makes an election under paragraph (2), the annual enrollment fee described in subsection (a) shall be collected and credited to the Federal Supplementary Medical Insurance Trust Fund in the same manner as the monthly premium determined under section 1839 is collected and credited to such Trust Fund under section 1840.

''(2) DIRECT PAYMENT.—An eligible beneficiary may elect to pay the annual enrollment fee directly or in any other manner approved by the Secretary. The Secretary shall establish procedures for making such an election.

''(c) WAIVER.—The Secretary shall waive the enrollment fee described in subsection (a) in the case of an eligible beneficiary whose income is below 200 percent of the poverty line.

''BENEFITS UNDER THE PROGRAM

''SEC. 1860E–6. (a) ACCESS TO NEGOTIATED PRICES.—

''(1) NEGOTIATED PRICES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each prescription drug card plan offering a discount card program by an eligible entity with a contract under this part shall provide each eligible beneficiary enrolled in such plan with access to negotiated prices (including applicable discounts) for such prescription drugs as the eligible entity determines appropriate. Such discounts may include discounts for nonformulary drugs. If such a beneficiary becomes eligible for the catastrophic benefit under subsection (b), the negotiated prices (including applicable discounts) shall continue to be available to the beneficiary for those prescription drugs for which payment may not be made under section 1860E–8(b). For purposes of this subparagraph, the term 'prescription drugs' is not limited to covered drugs, but does not include any over-the-counter drug that is not a covered drug.

''(B) LIMITATIONS.—

''(i) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the negotiated prices (including applicable discounts) for nonformulary drugs may differ.

''(ii) AVOIDANCE OF DUPLICATE COVERAGE.—The negotiated prices (including applicable discounts) for prescription drugs shall not be available for any drug prescribed for an eligible beneficiary if payment for the drug is available under part A or B (but such negotiated prices shall be available if payment under part A or B is not available because the beneficiary has not met the deductible or has exhausted benefits under part A or B).

''(2) DISCOUNT CARD.—The Secretary shall develop a uniform standard card format to be issued by each eligible entity offering a prescription drug discount card plan that shall be used by an enrolled beneficiary to ensure the access of such beneficiary to negotiated prices under paragraph (1).

''(3) ENSURING DISCOUNTS IN ALL AREAS.—The Secretary shall develop procedures that ensure that each eligible beneficiary that resides in an area where no prescription drug discount card plans are available is provided with access to negotiated prices for prescription drugs (including applicable discounts).

''(b) CATASTROPHIC BENEFIT.—

''(1) TEN PERCENT COST-SHARING.—Subject to any formulary used by the prescription drug discount card program in which the eligible beneficiary is enrolled, the catastrophic benefit shall provide benefits with cost-sharing that is equal to 10 percent of the negotiated price (taking into account any applicable discounts) of each drug dispensed to such beneficiary after the beneficiary has incurred costs (as described in paragraph (3)) for covered drugs in a year equal to the applicable annual out-of-pocket limit specified in paragraph (2).

''(2) ANNUAL OUT-OF-POCKET LIMITS.—For purposes of this part, the annual out-of-pocket limits specified in this paragraph are as follows:

''(A) BENEFICIARIES WITH ANNUAL INCOMES BELOW 200 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as determined under section 1860E–9) is below 200 percent of the poverty line, the annual out-of-pocket limit is equal to $1,500.

''(B) BENEFICIARIES WITH ANNUAL INCOMES BETWEEN 200 AND 400 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as so determined) equals or exceeds 200 percent, but does not exceed 400 percent, of the poverty line, the annual out-of-pocket limit is equal to $3,500.

''(C) BENEFICIARIES WITH ANNUAL INCOMES BETWEEN 400 AND 600 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as so determined) equals or exceeds 400 percent, but does not exceed 600 percent, of the poverty line, the annual out-of-pocket limit is equal to $5,500.

''(D) BENEFICIARIES WITH ANNUAL INCOMES THAT EXCEED 600 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as so determined) equals or exceeds 600 percent of the poverty line, the annual out-of-pocket limit is an amount equal to 20 percent of that beneficiary's income for that year (rounded to the nearest multiple of $1).

''(3) APPLICATION.—In applying paragraph (2), incurred costs shall only include those expenses for covered drugs that are incurred by the eligible beneficiary using a card approved by the Secretary under this part that are paid by that beneficiary and for which the beneficiary is not reimbursed (through insurance or otherwise) by another person.

''(4) ANNUAL PERCENTAGE INCREASE.—

''(A) IN GENERAL.—In the case of any calendar year after 2005, the dollar amounts in subparagraphs (A), (B), and (C) of paragraph (2) shall be increased by an amount equal to—

''(i) such dollar amount; multiplied by

''(ii) the inflation adjustment determined under section 1860E–5(a)(2)(B) for such calendar year.

''(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''(5) ELIGIBLE ENTITY NOT AT FINANCIAL RISK FOR CATASTROPHIC BENEFIT.—

''(A) IN GENERAL.—The Secretary, and not the eligible entity, shall be at financial risk for the provision of the catastrophic benefit under this subsection.

''(B) PROVISIONS RELATING TO PAYMENTS TO ELIGIBLE ENTITIES.—For provisions relating to payments to eligible entities for administering the catastrophic benefit under this subsection, see section 1860E–8.

''(6) ENSURING CATASTROPHIC BENEFIT IN ALL AREAS.—The Secretary shall develop procedures for the provision of the catastrophic benefit under this subsection to each eligible beneficiary that resides in an area where there are no prescription drug discount card plans offered that have been awarded a contract under this part.

''REQUIREMENTS FOR ENTITIES TO PROVIDE PRESCRIPTION DRUG COVERAGE

''SEC. 1860E–7. (a) ESTABLISHMENT OF BIDDING PROCESS.—The Secretary shall establish a process under which the Secretary accepts bids from eligible entities and awards contracts to the entities to provide the benefits under this part to eligible beneficiaries in an area.

''(b) SUBMISSION OF BIDS.—Each eligible entity desiring to enter into a contract under this part shall submit a bid to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(c) ADMINISTRATIVE FEE BID.—

''(1) SUBMISSION.—For the bid described in subsection (b), each entity shall submit to the Secretary information regarding administration of the discount card and catastrophic benefit under this part.

''(2) BID SUBMISSION REQUIREMENTS.—

''(A) ADMINISTRATIVE FEE BID SUBMISSION.—In submitting bids, the entities shall include separate costs for administering the discount card component, if applicable, and the catastrophic benefit. The entity shall submit the administrative fee bid in a form and manner specified by the Secretary, and shall include a statement of projected enrollment and a separate statement of the projected administrative costs for at least the following functions:

''(i) Enrollment, including income eligibility determination.

''(ii) Claims processing.

''(iii) Quality assurance, including drug utilization review.

''(iv) Beneficiary and pharmacy customer service.

''(v) Coordination of benefits.

''(vi) Fraud and abuse prevention.

''(B) NEGOTIATED ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary has the authority to negotiate regarding the bid amounts submitted. The Secretary may reject a bid if the Secretary determines it is not supported by the administrative cost information provided in the bid as specified in subparagraph (A).

''(C) PAYMENT TO PLANS BASED ON ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary shall use the bid amounts to calculate a benchmark amount consisting of the enrollment-weighted average of all bids for each function and each class of entity. The class of entity is either a regional or national entity, or such other classes as the Secretary may determine to be appropriate. The functions are the discount card and catastrophic components. If an eligible entity's combined bid for both functions is above the combined benchmark within the entity's class for the functions, the eligible entity shall collect additional necessary revenue through 1 or both of the following:

''(i) Additional fees charged to the beneficiary, not to exceed $25 annually.

''(ii) Use of rebate amounts from drug manufacturers to defray administrative costs.

''(d) AWARDING OF CONTRACTS.—

''(1) IN GENERAL.—The Secretary shall, consistent with the requirements of this part and the goal of containing medicare program costs, award at least 2 contracts in each area, unless only 1 bidding entity meets the terms and conditions specified by the Secretary under paragraph (2).

''(2) TERMS AND CONDITIONS.—The Secretary shall not award a contract to an eligible entity under this section unless the Secretary finds that the eligible entity is in compliance with such terms and conditions as the Secretary shall specify.

''(3) REQUIREMENTS FOR ELIGIBLE ENTITIES PROVIDING DISCOUNT CARD PROGRAM.—Except as provided in subsection (e), in determining which of the eligible entities that submitted bids that meet the terms and conditions specified by the Secretary under paragraph (2) to award a contract, the Secretary shall consider whether the bid submitted by the entity meets at least the following requirements:

''(A) LEVEL OF SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

''(B) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order and provides convenient access to retail pharmacies.

''(C) LEVEL OF BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and services to prevent adverse drug interactions.

''(D) ADEQUACY OF INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

''(E) EXTENT OF DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

''(F) EXTENT OF QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

''(G) OPERATION OF ASSISTANCE PROGRAM.—The entity meets such requirements relating to solvency, compliance with financial reporting requirements, audit compliance, and contractual guarantees as specified by the Secretary.

''(H) PRIVACY COMPLIANCE.—The entity implements policies and procedures to safeguard the use and disclosure of program beneficiaries' individually identifiable health information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''(I) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

The prices negotiated by a prescription drug discount card program endorsed under this section shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

''(4) BENEFICIARY ACCESS TO SAVINGS AND REBATES.—The Secretary shall require eligible entities offering a discount card program to pass on savings and rebates negotiated with manufacturers to eligible beneficiaries enrolled with the entity.

''(5) NEGOTIATED AGREEMENTS WITH EMPLOYER-SPONSORED PLANS.—Notwithstanding any other provision of this part, the Secretary may negotiate agreements with employer-sponsored plans under which eligible beneficiaries are provided with a benefit for prescription drug coverage that is more generous than the benefit that would otherwise have been available under this part if such an agreement results in cost savings to the Federal Government.

''(e) REQUIREMENTS FOR OTHER ELIGIBLE ENTITIES.—An eligible entity that is licensed under State law to provide the health insurance benefits under this section shall be required to meet the requirements of subsection (d)(3). If an eligible entity offers a national plan, such entity shall not be required to meet the requirements of subsection (d)(3), but shall meet the requirements of Employee Retirement Income Security Act of 1974 that apply with respect to such plan.

''PAYMENTS TO ELIGIBLE ENTITIES FOR ADMINISTERING THE CATASTROPHIC BENEFIT

''SEC. 1860E–8. (a) IN GENERAL.—The Secretary may establish procedures for making payments to an eligible entity under a contract entered into under this part for—

''(1) the costs of providing covered drugs to beneficiaries eligible for the benefit under this part in accordance with subsection (b) minus the amount of any cost-sharing collected by the eligible entity under section 1860E–6(b); and

''(2) costs incurred by the entity in administering the catastrophic benefit in accordance with section 1860E–7.

''(b) PAYMENT FOR COVERED DRUGS.—

''(1) IN GENERAL.—Except as provided in subsection (c) and subject to paragraph (2), the Secretary may only pay an eligible entity for covered drugs furnished by the eligible entity to an eligible beneficiary enrolled with such entity under this part that is eligible for the catastrophic benefit under section 1860E–6(b).

''(2) LIMITATIONS.—

''(A) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the Secretary may not make any payment for a covered drug that is not included in such formulary, except to the extent provided under section 1860E–4(a)(4)(B).

''(B) NEGOTIATED PRICES.—The Secretary may not pay an amount for a covered drug furnished to an eligible beneficiary that exceeds the negotiated price (including applicable discounts) that the beneficiary would have been responsible for under section 1860E–6(a) or the price negotiated for insurance coverage under the MedicareAdvantage program under part C, a medicare supplemental policy, employer-sponsored coverage, or a State plan.

''(C) COST-SHARING LIMITATIONS.—An eligible entity may not charge an individual enrolled with such entity who is eligible for the catastrophic benefit under this part any copayment, tiered copayment, coinsurance, or other cost-sharing that exceeds 10 percent of the cost of the drug that is dispensed to the individual.

''(3) PAYMENT IN COMPETITIVE AREAS.—In a geographic area in which 2 or more eligible entities offer a plan under this part, the Secretary may negotiate an agreement with the entity to reimburse the entity for costs incurred in providing the benefit under this part on a capitated basis.

''(c) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

''DETERMINATION OF INCOME LEVELS

''SEC. 1860E–9. (a) DETERMINATION OF INCOME LEVELS.—

''(1) IN GENERAL.—The Secretary shall establish procedures under which each eligible entity awarded a contract under this part determines the income levels of eligible beneficiaries enrolled in a prescription drug card plan offered by that entity at least annually for purposes of sections 1860E–5(c) and 1860E–6(b).

''(2) PROCEDURES.—The procedures established under paragraph (1) shall require each eligible beneficiary to submit such information as the eligible entity requires to make the determination described in paragraph (1).

''(b) ENFORCEMENT OF INCOME DETERMINATIONS.—The Secretary shall—

''(1) establish procedures that ensure that eligible beneficiaries comply with sections 1860E–5(c) and 1860E–6(b); and

''(2) require, if the Secretary determines that payments were made under this part to which an eligible beneficiary was not entitled, the repayment of any excess payments with interest and a penalty.

''(c) QUALITY CONTROL SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a quality control system to monitor income determinations made by eligible entities under this section and to produce appropriate and comprehensive measures of error rates.

''(2) PERIODIC AUDITS.—The Inspector General of the Department of Health and Human Services shall conduct periodic audits to ensure that the system established under paragraph (1) is functioning appropriately.

''APPROPRIATIONS

''SEC. 1860E–10. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund established under section 1841, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part exceed the enrollment fees collected under section 1860E–5.

''MEDICARE COMPETITION AND PRESCRIPTION DRUG ADVISORY BOARD

''SEC. 1860E–11. (a) ESTABLISHMENT OF BOARD.—There is established a Medicare Prescription Drug Advisory Board (in this section referred to as the 'Board').

''(b) ADVICE ON POLICIES; REPORTS.—

''(1) ADVICE ON POLICIES.—The Board shall advise the Secretary on policies relating to the Voluntary Medicare Prescription Drug Discount and Security Program under this part.

''(2) REPORTS.—

''(A) IN GENERAL.—With respect to matters of the administration of the program under this part, the Board shall submit to Congress and to the Secretary such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of the program under this part. Each such report shall be published in the Federal Register.

''(B) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

''(c) STRUCTURE AND MEMBERSHIP OF THE BOARD.—

''(1) MEMBERSHIP.—The Board shall be composed of 7 members who shall be appointed as follows:

''(A) PRESIDENTIAL APPOINTMENTS.—

''(i) IN GENERAL.—Three members shall be appointed by the President, by and with the advice and consent of the Senate.

''(ii) LIMITATION.—Not more than 2 such members may be from the same political party.

''(B) SENATORIAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Committee on Finance of the Senate.

''(C) CONGRESSIONAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

''(2) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

''(3) COMPOSITION.—Of the members appointed under paragraph (1)—

''(A) at least 1 shall represent the pharmaceutical industry;

''(B) at least 1 shall represent physicians;

''(C) at least 1 shall represent medicare beneficiaries;

''(D) at least 1 shall represent practicing pharmacists; and

''(E) at least 1 shall represent eligible entities.

''(d) TERMS OF APPOINTMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), each member of the Board shall serve for a term of 6 years.

''(2) CONTINUANCE IN OFFICE AND STAGGERED TERMS.—

''(A) CONTINUANCE IN OFFICE.—A member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(B) STAGGERED TERMS.—The terms of service of the members initially appointed under this section shall begin on January 1, 2006, and expire as follows:

''(i) PRESIDENTIAL APPOINTMENTS.—The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

''(I) 2 years;

''(II) 4 years; and

''(III) 6 years.

''(ii) SENATORIAL APPOINTMENTS.—The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

''(I) 3 years; and

''(II) 6 years.

''(iii) CONGRESSIONAL APPOINTMENTS.—The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

''(I) 4 years; and

''(II) 5 years.

''(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

''(D) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

''(e) CHAIRPERSON.—A member of the Board shall be designated by the President to serve as Chairperson for a term of 4 years or, if the remainder of such member's term is less than 4 years, for such remainder.

''(f) EXPENSES AND PER DIEM.—Members of the Board shall serve without compensation, except that, while serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

''(g) MEETINGS.—

''(1) IN GENERAL.—The Board shall meet at the call of the Chairperson (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as determined by the Chairperson in consultation with the other members of the Board.

''(2) QUORUM.—Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

''(h) FEDERAL ADVISORY COMMITTEE ACT.—The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

''(i) PERSONNEL.—

''(1) STAFF DIRECTOR.—The Board shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code.

''(2) STAFF.—

''(A) IN GENERAL.—The Board may employ, without regard to chapter 31 of title 5, United States Code, such officers and employees as are necessary to administer the activities to be carried out by the Board.

''(B) FLEXIBILITY WITH RESPECT TO CIVIL SERVICE LAWS.—

''(i) IN GENERAL.—The staff of the Board shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and, subject to clause (ii), shall be paid without regard to the provisions of chapters 51 and 53 of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Federal Supplemental Medical Insurance Trust Fund established under section 1841, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.''.

(b) CONFORMING REFERENCES TO PREVIOUS PART E.—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this Act) to part E of title XVIII of the Social Security Act is deemed a reference to part F of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this section, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) IMPLEMENTATION.—Notwithstanding any provision of part E of title XVIII of the Social Security Act (as added by subsection (a)), the Secretary of Health and Human Services shall implement the Voluntary Medicare Prescription Drug Discount and Security Program established under such part in a manner such that—

(A) benefits under such part for eligible beneficiaries (as defined in section 1860E of such Act, as added by such subsection) with annual incomes below 200 percent of the poverty line (as defined in such section) are available to such beneficiaries not later than the date that is 6 months after the date of enactment of this Act; and

(B) benefits under such part for other eligible beneficiaries are available to such beneficiaries not later than the date that is 1 year after the date of enactment of this Act.

SEC. 102. ADMINISTRATION OF VOLUNTARY MEDICARE PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

(a) ESTABLISHMENT OF CENTER FOR MEDICARE PRESCRIPTION DRUGS.—There is established, within the Centers for Medicare & Medicaid Services of the Department of Health and Human Services, a Center for Medicare Prescription Drugs. Such Center shall be separate from the Center for Beneficiary Choices, the Center for Medicare Management, and the Center for Medicaid and State Operations.

(b) DUTIES.—It shall be the duty of the Center for Medicare Prescription Drugs to administer the Voluntary Medicare Prescription Drug Discount and Security Program established under part E of title XVIII of the Social Security Act (as added by section 101).

(c) DIRECTOR.—

(1) APPOINTMENT.—There shall be in the Center for Medicare Prescription Drugs a Director of Medicare Prescription Drugs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Center for Medicare Prescription Drugs and shall have authority and control over all personnel and activities thereof.

(d) PERSONNEL.—The Director of the Center for Medicare Prescription Drugs may appoint and terminate such personnel as may be necessary to enable the Center for Medicare Prescription Drugs to perform its duties.

SEC. 103. EXCLUSION OF PART E COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.

Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking ''attributable to the application of section'' and inserting ''attributable to—

''(1) the application of section'';

(2) by striking the period and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(2) the Voluntary Medicare Prescription Drug Discount and Security Program under part E.''.

SEC. 104. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) MODERNIZATION OF MEDICARE SUPPLEMENTAL POLICIES.—

''(1) PROMULGATION OF MODEL REGULATION.—

''(A) NAIC MODEL REGULATION.—If, within 9 months after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, the National Association of Insurance Commissioners (in this subsection referred to as the 'NAIC') changes the 1991 NAIC Model Regulation (described in subsection (p)) to revise the benefit package classified as 'J' under the standards established by subsection (p)(2) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(11)) so that—

''(i) the coverage for prescription drugs available under such benefit package is replaced with coverage for prescription drugs that complements but does not duplicate the benefits for prescription drugs that beneficiaries are otherwise entitled to under this title;

''(ii) a uniform format is used in the policy with respect to such revised benefits; and

''(iii) such revised standards meet any additional requirements imposed by the Prescription Drug and Medicare Improvement Act of 2003;

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2006, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '2006 NAIC Model Regulation').

''(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2006, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '2006 Federal Regulation').

''(C) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the NAIC or Secretary shall consult with a working group similar to the working group described in subsection (p)(1)(D).

''(D) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits under part E of this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2006 NAIC Model Regulation or 2006 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

''(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'I' under the standards established by subsection (p)(2) (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part E.

''(3) APPLICATION OF PROVISIONS AND CONFORMING REFERENCES.—

''(A) APPLICATION OF PROVISIONS.—The provisions of paragraphs (4) through (10) of subsection (p) shall apply under this section, except that—

''(i) any reference to the model regulation applicable under that subsection shall be deemed to be a reference to the applicable 2006 NAIC Model Regulation or 2006 Federal Regulation; and

''(ii) any reference to a date under such paragraphs of subsection (p) shall be deemed to be a reference to the appropriate date under this subsection.

''(B) OTHER REFERENCES.—Any reference to a provision of subsection (p) or a date applicable under such subsection shall also be considered to be a reference to the appropriate provision or date under this subsection.''.

SA 1013. Mr. BOND (for himself and Mr. ROBERTS) 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 appropriate place, insert the following:

SEC. ___. COMMITTEE ON DRUG COMPOUNDING.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an Committee on Drug Compounding (referred to in this section as the ''Committee'') within the Food and Drug Administration on drug compounding to ensure that patients are receiving necessary, safe and accurate dosages of compounded drugs.

(b) MEMBERSHIP.—The membership of the Advisory Committee shall be appointed by the Secretary of Health and Human Services and shall include representatives of—

(1) the National Association of Boards of Pharmacy;

(2) pharmacy groups;

(3) physician groups;

(4) consumer and patient advocate groups;

(5) the United States Pharmacopoeia; and

(6) other individuals determined appropriate by the Secretary.

(c) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to the Secretary a report concerning the recommendations of the Committee to improve and protect patient safety.

(d) TERMINATION.—The Committee shall terminate on the date that is 1 year after the date of enactment of this Act.

SA 1014. Mr. BOND 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 483, line 7, strike ''and'' and insert '', pharmacy services, and''.

SA 1015. 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:

At the end of title VI, insert the following:

SEC. ___. STUDY ON MAKING PRESCRIPTION PHARMACEUTICAL INFORMATION ACCESSIBLE FOR BLIND AND VISUALLY-IMPAIRED INDIVIDUALS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall undertake a study of how to make prescription pharmaceutical information, including drug labels and usage instructions, accessible to blind and visually-impaired individuals.

(2) STUDY TO INCLUDE EXISTING AND EMERGING TECHNOLOGIES.—The study under paragraph (1) shall include a review of existing and emerging technologies, including assistive technology, that makes essential information on the content and prescribed use of pharmaceutical medicines available in a usable format for blind and visually-impaired individuals.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress on the study required under subsection (a).

(2) CONTENTS OF REPORT.—The report required under subsection (a) shall include recommendations for the implementation of usable formats for making prescription pharmaceutical information available to blind and visually-impaired individuals and an estimate of the costs associated with the implementation of each format.

SA 1016. 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 654, after line 18 and before the amendment to the title, insert the following:

SEC. ___. INFORMATION TECHNOLOGY.

(a) IMPROVING CLINICAL PRACTICES.—

(1) TELEMEDICINE.—

(A) LICENSING.—Section 1834(m)(4)(C)(i) (42 U.S.C. 1395m(m)(4)(C)(i)) is amended—

(i) in subclause (II), by striking ''or'' at the end;

(ii) in subclause (III), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(IV) in a State in which the respective State medical board has adopted a formal

policy regarding licensing or certification requirements for providers at distant sites who do not have a license to practice medicine at the originating site.''.

(B) EXPANDING ELIGIBILITY FOR REIMBURSEMENT.—Section 1834(m)(4)(C)(i)(I) (42 U.S.C. 1395m(m)(4)(C)(i)(I)) is amended by striking ''rural''.

(2) NIH TRIALS TO STUDY IMPACT OF TECHNOLOGY ON COST AND QUALITY OF HEALTH CARE.—

(A) FINDINGS.—Congress makes the following findings:

(i) An estimated 80,000 to 100,000 patients die every year from errors suffered during hospitalization.

(ii) Many of these errors could have been avoided with changes to the system of health care delivery.

(iii) These systemwide changes have the potential to decrease the cost of providing health care and to increase the quality of services provided.

(iv) These improvements in cost and quality can be as dramatic as improvements seen with new technology or pharmaceutical advances.

(v) Currently new medical devices and medications undergo rigorous randomized controlled clinical trials to document their effect on a patient's health.

(vi) These clinical trials form the basis for providers to practice evidence-based medicine and to change their practices to improve their patients' outcomes.

(vii) Similar controlled clinical studies of systems-based approaches to changing practice, if available, can help providers implement systems-based measures to improve outcomes.

(B) RESEARCH ON SYSTEMS-BASED APPROACHES TO CHANGING CLINICAL PRACTICE.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

''SEC. 409J. RESEARCH ON SYSTEMS-BASED APPROACHES TO CHANGING CLINICAL PRACTICE.

''(a) ESTABLISHMENT.—The Secretary shall establish within the Office of the Director of NIH a Medical Systems Safety Initiative (referred to in this section as the 'Initiative') to conduct and support research regarding systems-based approaches to improving and advancing medical care. The Initiative shall be headed by the Director of NIH (referred to in this section as the 'Director').

''(b) PURPOSE.—The purpose of the Initiative is to enable the Director of NIH—

''(1) to conduct and support basic and applied research (including both intramural and extramural research), research training, the dissemination of health information, and other programs with respect to systems research, user-centered design, and human factors engineering within the National Institutes of Health to realize the expanding opportunities for improving health outcomes through the analysis and redesign of medical systems;

''(2) to enhance collaborative efforts among the Institutes to conduct and support multidisciplinary research in the areas that the Director determines to be most promising; and

''(3) to encourage and support clinical studies to provide scientifically and statistically rigorous and meaningful information about the utility and effectiveness of various systems-based interventions.

''(c) APPROPRIATE SCIENTIFIC EXPERTISE AND COORDINATION WITH INSTITUTES AND FEDERAL AGENCIES.—The Director of NIH, after consultation with the Division of Research Grants, shall ensure that scientists with appropriate expertise in research on health systems, user-centered design, and human factors engineering are incorporated into the review, oversight, and management processes of all research projects and other activities funded by the Initiative. In carrying out this subsection, the Director, as necessary, may establish review groups with appropriate scientific expertise. The Director shall coordinate efforts with other Institutes and Federal agencies to ensure appropriate scientific input and management.

''(d) ENSURING HIGH QUALITY, RIGOROUS SCIENTIFIC REVIEW.—In order to ensure high quality, rigorous scientific review with respect to the Initiative, the Director of NIH shall conduct or support the following activities:

(1) Outcomes research and investigations.

(2) Epidemiological studies on the incidence and prevalence of various systems, practices, and processes within the health care system and their effect on health outcomes, both beneficial and harmful.

(3) Health services research.

(4) Basic science research.

(5) Clinical trials.

(6) Other appropriate research and investigational activities.''.

(b) IMPROVING AND PROMOTING ELECTRONIC MEDICAL RECORDS.—

(1) AUTHENTICATION STANDARDS.—The Director of the National Center for Vital and Health Statistics shall provide assistance to the Secretary of Health and Human Services in the development of authentication standards for health records. In developing such standards, the Secretary shall take into consideration the following:

(A) Recommendations for authentication technology and identification information standards that—

(i) provide for the reliable identification and retrieval of a patient's electronic medical data;

(ii) allow the patient to have detailed control over the access of individual components of his or her electronic medical record by being able to specify specific providers, each of whom will have access to limited portions of the electronic medical record;

(iii) minimize security risks, including the potential for—

(I) the patient to misrepresent his or her true identity;

(II) a health care provider to access data for which the patient has not consented to grant such access;

(III) a third party to access identification information; or

(IV) a third party to circumvent or exploit the authentication process in order to access electronic medical data without the consent of the patient;

(iv) allow for the timely and convenient creation of identification information at the time of contact between a patient and a provider, so as to minimize any disruption or delay in the provision of needed medical services to a patient who does not already have identification information; and

(v) maximize the probability of accurate identification, secure authentication, and rapid access to medical data even in situations where the patient—

(I) does not possess the identification information that is usually required for successful authentication, but wishes to grant consent to the provider to access necessary medical data;

(II) possesses the identification information but is not able to provide consent for the emergency access of medical data due to incapacitation; and

(III) is not able to provide identification information nor consent for emergency data access due to incapacitation.

(2) PERSONAL HEALTH RECORD.—

(A) FEDERAL HEALTH INFORMATION EXCHANGE STANDARDS INITIATIVE.—The Secretary of Health and Human Services, the Secretary of Defense, and the Secretary of Veterans' Affairs, in carrying out activities under the Federal e-Goverment Health Information Exchange Standards Initiative, shall jointly recommend standards for the implementation of personal health records that—

(i) includes the capability for patients to append to their electronic record information about—

(I) illnesses for which the patient did not seek professional medical care; and

(II) health information not related to a specific disease, episode, or illness; and

(ii) provides convenient access to the individual's full electronic medical record.

(B) MEDICAL TRANSLATION RESEARCH.—

(i) IN GENERAL.—The Director of the National Science Foundation shall award grants to public and nonprofit private entities for the conduct of basic research on innovative approaches to improve patients' understanding and comprehension of their electronic medical record. Research areas may include technology for the automated—

(I) translation of medical information to language more easily understandable by the patient;

(II) reorganization of the electronic medical record into a structure more useful to the patient; and

(III) integration of links to relevant information from other sources into the electronic medical record.

(ii) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this subparagraph on a merit-reviewed competitive basis.

(iii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subparagraph—

(I) $5,000,000 for fiscal year 2004;

(II) $10,000,000 for fiscal year 2005; and

(III) $15,000,000 for fiscal year 2006 and each fiscal year thereafter.

(3) DEFINITIONS.—In this subsection:

(A) IDENTIFICATION INFORMATION.—The term ''identification information'' with respect to the medical records of a patient, means the data necessary to identify the patient.

(B) AUTHENTICATION.—The term ''authentication'' means the process of using the identification information to validate the patient's identification and gain access to his or her electronic medical data.

(c) IMPROVING INFORMATION TECHNOLOGY INFRASTRUCTURE IN THE BASIC LIFE SCIENCES.—Not later than 18 months after the date of enactment of this Act, the Director of the National Institute of General Medical Sciences shall submit to Congress a report on the activities of the Biomedical Information Science and Technology Initiative. Such report shall include—

(1) a description of current activities of the Biomedical Information Science and Technology Initiative Consortium;

(2) a summary of recently completed and ongoing grant programs; and

(3) recommendations for the further advancement of the Biomedical Information Science and Technology Initiative and bioinformatics and computational biology research in general.

(d) IMPROVING EDUCATION AND TRAINING.—Subpart 3 of part D of title IV of the Public Health Service Act (42 U.S.C. 286c et seq.) is amended by adding at the end the following:

''SEC. 478B. CERTIFICATION OF INFORMATION WEBSITES.

''(a) IN GENERAL.—The National Information Center on Health Services Research and Health Care Technology (in this section referred to as the 'Center') shall develop a voluntary certification program for health information websites on the Internet. As part of such program, websites shall be deemed to

be certified if they meet criteria that includes the following:

''(1) The website provides references to peer-reviewed rigorous scientific research for any conclusions or recommendations that it advocates.

''(2) The website is easy to navigate and comprehend by a general audience that does not have any specific medical training.

''(3) The website accommodates, to the maximum extent practicable, cultural, language, and literacy variation among its target audience.

''(b) LIMITATION.—In determining whether a website meets criteria for certification under the program under subsection (a), the Center may not consider—

''(1) the specific nature of the conclusions or recommendations of the website themselves, so long as they meet criteria for evidence as specified in subsection (a)(1); and

''(2) the person or organization responsible for the website.

''(c) PERIOD RECERTIFICATION.—In establishing the program under subsection (a), the Center shall develop a policy for the periodic expiration and renewal of certifications so as to ensure that websites are reviewed on a periodic basis for compliance with the criteria of certification.

''(d) SEAL.—The Center shall develop a seal or marker that can be used by a website that is certified under the program under subsection (a) to indicate to its audience that the website has obtained the Center's certification.

''(e) FEE.—The Center may assess an application fee for websites in order to cover the costs of evaluating the website.''.

SA 1017. Mr. ALLARD (for himself, Mr. FITZGERALD, and Ms. COLLINS) 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 VI, insert the following:

SEC. ___. TEMPORARY SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS.

(a) IN GENERAL.—During the period described in subsection (b), the Secretary may not require, under section 4602(e) of the Balanced Budget Act of 1997 or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act (such information in this section referred to as ''non-medicare/medicaid OASIS information'').

(b) PERIOD OF SUSPENSION.—The period described in this subsection—

(1) begins on the date of the enactment of this Act; and

(2) ends on the last day of the 2nd month beginning after the date as of which the Secretary has published final regulations regarding the collection and use by the Centers for Medicare & Medicaid Services of non-medicare/medicaid OASIS information following the submission of the report required under subsection (c)

(c) REPORT.—

(1) STUDY.—The Secretary shall conduct a study on how non-medicare/medicaid OASIS information is and can be used by large home health agencies. Such study shall examine—

(A) whether there are unique benefits from the analysis of such information that cannot be derived from other information available to, or collected by, such agencies; and

(B) the value of collecting such information by small home health agencies compared to the administrative burden related to such collection.

In conducting the study the Secretary shall obtain recommendations from quality assessment experts in the use of such information and the necessity of small, as well as large, home health agencies collecting such information.

(2) REPORT.—The Secretary shall submit to Congress a report on the study conducted under paragraph (1) by not later than 18 months after the date of the enactment of this Act.

(d) CONSTRUCTION.—Nothing in this section shall be construed as preventing home health agencies from collecting non-medicare/medicaid OASIS information for their own use.

SA 1018. Mr. LIEBERMAN (for himself and Ms. COLLINS) 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 VI, insert the following:

SEC. ___. COLON CANCER SCREENING.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) colorectal cancer screening tests (as defined in section 1861(pp) of the Social Security Act (42 U.S.C. 1395x(pp)) covered under the medicare program have been severely underutilized, with the Comptroller General of the United States reporting in 2000 that since coverage of such tests was implemented, the percentage of beneficiaries under the medicare program receiving either a screening or a diagnostic colonoscopy has increased by only 1 percent;

(2) the Centers for Medicare & Medicaid Services should encourage health care providers to use more effective screening and diagnostic health care technologies in the area of colorectal cancer screening;

(3) in recent years, the Centers for Medicare & Medicaid Services has subjected colorectal cancer screening tests to some of the largest reimbursement reductions under the medicare program;

(4) unlike other preventive screening tests covered under the medicare program, health care providers must consult with beneficiaries prior to furnishing a screening colonoscopy in order to—

(A) ascertain the medical and family history of the beneficiary; and

(B) inform the beneficiary of preparatory steps that must be taken prior to the procedure; and

(5) reimbursement under the medicare program is not currently available for the consultations described in paragraph (4) despite the fact that reimbursement is provided under such program for similar consultations prior to a diagnostic colonoscopy.

(b) INCREASE IN REIMBURSEMENT FOR COLORECTAL CANCER SCREENING AND DIAGNOSTIC TESTS.—

(1) IN GENERAL.—Section 1834(d) (42 U.S.C. 1395m(d)) is amended by adding at the end the following new paragraph:

''(4) ENHANCED PAYMENT FOR COLORECTAL CANCER SCREENING AND DIAGNOSTIC TESTS.—

''(A) FACILITY RATES.—Notwithstanding paragraphs (2)(A) and (3)(A), the Secretary shall establish national minimum payment amounts for CPT codes 45378, 45380, 45385 and HCPCS codes GO105 and GO121 for items and services furnished during the last 6 months of 2003 and in subsequent years which reflect a 30 percent increase above the relative value units in effect as the facility rates for such codes on June 30, 2003, with such revised payment level to apply to items and services performed in a facility setting.

''(B) ANNUAL ADJUSTMENTS.—In the case of items and services furnished on or after January 1, 2004, the payment rates described in subparagraph (A) shall, subject to the minimum payment amounts established in such subparagraph, be adjusted annually as provided in section 1848.''.

(2) EFFECT ON PART A PAYMENTS.—The Secretary shall not consider the national minimum payment described in section 1834(d)(4)(A) (42 U.S.C. 1395m(d)(4)(A)), as added by paragraph (1), when determining the hospital outpatient prospective payment system payment amounts under the relevant APC codes for colorectal cancer screening and diagnostic tests.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to items and services furnished on or after July 1, 2003.

(c) MEDICARE COVERAGE OF OFFICE VISIT OR CONSULTATION PRIOR TO A SCREENING COLONOSCOPY OR IN CONJUNCTION WITH A BENEFICIARY'S DECISION TO OBTAIN SUCH A SCREENING.—

(1) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (U), by striking ''and'' at the end;

(B) in subparagraph (V), by inserting ''and'' at the end; and

(C) by adding at the end the following new subparagraph:

''(W) an outpatient office visit or consultation for the purpose of beneficiary education, assuring selection of the proper screening test, and securing information relating to the procedure and sedation of the beneficiary, prior to a colorectal cancer screening test consisting of a screening colonoscopy or in conjunction with the beneficiary's decision to obtain such a screening, regardless of whether such screening is medically indicated with respect to the beneficiary;''.

(2) PAYMENT.—

(A) IN GENERAL.—Section 1833(a)(1) (42 U.S.C. 1395*l*(a)(1)) is amended—

(i) by striking ''and'' before ''(U)''; and

(ii) by inserting before the semicolon at the end the following: '', and (V) with respect to an outpatient office visit or consultation under section 1861(s)(2)(W), the amounts paid shall be 80 percent of the lesser of the actual charge or the amount established under section 1848, except that no payment shall be made for such a visit or consultation if no payment would be made for a colorectal cancer screening test consisting of a screening colonoscopy for the individual furnished on the date of such visit or consultation because of the frequency limits described in section 1834(d)(3)(E)''.

(B) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(W),'' after ''(2)(S),''.

(C) REQUIREMENT FOR ESTABLISHMENT OF PAYMENT AMOUNT UNDER PHYSICIAN FEE SCHEDULE.—Section 1834(d) (42 U.S.C. 1395m(d)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

''(5) PAYMENT FOR OUTPATIENT OFFICE VISIT OR CONSULTATION PRIOR TO SCREENING COLONOSCOPY.—With respect to an outpatient office visit or consultation under section 1861(s)(2)(W), payment under section 1848 shall be consistent with the payment amounts for CPT codes 99203 and 99243.''.

(D) FREQUENCY LIMITATION.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)) is amended—

(i) in subparagraph (H), by striking ''and'' at the end;

(ii) in subparagraph (I), by striking the semicolon at the end and inserting '', and''; and

(iii) by inserting after subparagraph (I) the following new subparagraph:

''(J) in the case of an outpatient office visit or consultation under section 1861(s)(2)(W), which is performed more frequently that is covered under section 1833(a)(1)(V);''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services provided on or after July 1, 2003.

(d) WAIVER OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS.—

(1) IN GENERAL.—The first sentence of section 1833(b) (42 U.S.C. 1395*l*(b)) is amended—

(A) by striking ''and'' before ''(6)''; and

(B) by inserting before the period at the end the following: '', and (7) such deductible shall not apply with respect to colorectal cancer screening tests (as described in section 1861(pp)(1))''.

(2) CONFORMING AMENDMENTS.—Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(d) (42 U.S.C. 1395m(d)) are each amended—

(A) by striking ''DEDUCTIBLE AND'' in the heading; and

(B) in subclause (I), by striking ''deductible or'' each place it appears.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to items and services furnished on or after July 1, 2003.

SA 1019. Mr. CONRAD (for himself, Mrs. MURRAY, Mr. SMITH, Mrs. LINCOLN, and Mr. JEFFORDS) 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;

At the end of subtitle B of title IV, insert the following:

SEC. ___. MEDICARE COVERAGE OF SELF-INJECTED BIOLOGICALS.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (U), by striking ''and'' at the end;

(B) in subparagraph (V), by inserting ''and'' at the end; and

(C) by adding at the end the following new subparagraph:

''(W)(i) a self-injected biological (which is approved by the Food and Drug Administration) that is prescribed as a complete replacement for a drug or biological (including the same biological for which payment is made under this title when it is furnished incident to a physicians' service) that would otherwise be described in subparagraph (A) or (B) and that is furnished during 2004 or 2005; and

''(ii) a self-injected drug that is used to treat multiple sclerosis;''.

(2) CONFORMING AMENDMENT.—Subparagraphs (A) and (B) of section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) are each amended by inserting '', except for any drug or biological described in subparagraph (W),'' after ''which''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs and biologicals furnished on or after January 1, 2004 and before January 1, 2006.

At the end of title VI, add the following:

SEC. ___. 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)''; and

(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 1020. Mr. CONRAD 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:

Strike section 401 and insert the following:

SEC. 401. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to subclause (II), for discharges''; and

(2) by adding at the end the following new subclause:

''(II) For discharges occurring in a fiscal year beginning with fiscal year 2004, the Secretary shall compute a standardized amount for hospitals located in any area within the United States and within each region equal to the standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for hospitals located in any area) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.''.

(b) CONFORMING AMENDMENTS.—

(1) COMPUTING DRG-SPECIFIC RATES.—Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking ''IN DIFFERENT AREAS'';

(B) in the matter preceding clause (i), by striking '', each of'';

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking ''and'' after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new clause:

''(iii) for a fiscal year beginning after fiscal year 2003, for hospitals located in all areas, to the product of—

''(I) the applicable standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

''(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.''.

(2) TECHNICAL CONFORMING SUNSET.—Section 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional adjusted DRG prospective payment rate''; and

(B) in subparagraph (D), in the matter preceding clause (i), by inserting ''for fiscal years before fiscal year 1997,'' before ''a regional DRG prospective payment rate for each region,''.

At the end of title VI, add the following:

SEC. ___. 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)''; and

(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 1021. Mr. CONRAD1 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 IV, add the following:

SEC. ___. GEOGRAPHIC RECLASSIFICATION OF CERTAIN HOSPITALS FOR PURPOSES OF REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, effective for discharges occurring during fiscal year 2004 and each subsequent fiscal year, for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)), hospitals located in the Bismarck, North Dakota Metropolitan Statistical Area are deemed to be located in the Fargo-Moorhead North Dakota-Minnesota Metropolitan Statistical Area.

(b) TREATMENT AS DECISION OF MEDICARE GEOGRAPHIC CLASSIFICATION REVIEW BOARD.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of section 1886(d) of the Social Security Act (42 U.S.C 1395ww(d)), any reclassification under subsection (a) shall be treated as a decision of the Medicare Geographic Classification Review Board under paragraph (10) of that section.

(2) NONAPPLICATION OF 3-YEAR APPLICATION PROVISION.—Section 1886(d)(10)(D)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)(v)), as it relates to a reclassification being effective for 3 fiscal years, shall not apply with respect to reclassifications made under this section.

(c) PROCESS FOR APPLICATIONS TO ENSURE THAT PROVISIONS APPLY BEGINNING OCTOBER 1, 2003.—The Secretary shall establish a process for the Medicare Geographic Classification Review Board to accept, and make determinations with respect to, applications that are filed by applicable hospitals within 90 days of the date of enactment of this section to reclassify based on the provisions of this section in order to ensure that such provisions shall apply to payments under such section 1886(d) for discharges occurring on or after October 1, 2003.

(d) ADJUSTMENTS TO ENSURE BUDGET NEUTRALITY.—If 1 or more applicable hospital's applications are approved pursuant to the process under subsection (c), the Secretary shall make a proportional adjustment in the standardized amounts determined under paragraph (3) of such section 1886(d) for payments for discharges occurring in fiscal year 2004 to ensure that approval of such applications does not result in aggregate payments under such section 1886(d) that are greater or less than those that would otherwise be made if this section had not been enacted.

SA 1022. Mr. BROWNBACK 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:

SEC. . This Act may be cited as the ''Quality Cancer Care Preservation Act''.

SEC. . MEDICARE PAYMENT FOR DRUGS AND BIOLOGICALS.

(a) IN GENERAL.—Section 1842(o)(1) of the Social Security Act (42 U.S.C. 1395u(o)(1)) is amended by striking ''95 percent of the average wholesale price'' and inserting ''the payment amount specified in section 1834(n)(2)''.

(b) DETERMINATION OF PAYMENT AMOUNT.—Section 1834 of such Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

''(n) PAYMENT FOR DRUGS AND BIOLOGICALS—

''(1) REPORTS BY MANUFACTURERS—

''(A) IN GENERAL.—Every drug manufacturer shall report to the Secretary, in the manner prescribed in this paragraph, its average sales price (as defined in subparagraph (B)) in the United States during each calendar quarter for drugs and biologicals covered under this part.

''(B) DEFINITIONS.—For purposes of this subsection—

''(i) the term ''manufacturer'' means, with respect to a drug or biological, the entity identified by the Labeler Code portion of the National Drug Code of such drug or biological; and

''(ii) the term ''average sales price'' means the weighted average of all final sales prices to all purchasers, excluding sales specified in subparagraph (C). In determining such average sales prices, such prices shall be net of volume discounts, chargebacks, short-dated product discounts, free goods contingent on purchases, rebates (other than those made or authorized under section 1927), and all other price concessions that result in a reduction of the ultimate cost to the purchaser.

''(C) CONSIDERATION IN CALCULATION OF AVERAGE SALES PRICES.—The calculation of average sales price under this subsection shall not include-

''(i) prices that are excluded from the calculation of ''best price'' under section 1927(c)(1)(C);

''(ii) prices offered to entities that are considered under subparagraph (B)(i) to be the manufacturers of the drugs or biologicals involved;

''(iii) prices offered by a manufacturer to a hospital, nursing facility, hospice, or health maintenance organization;

''(iv) prices to governmental entities; and

''(v) nominal prices offered to bona fide charitable organizations.

''(D) QUARTERLY REPORTS.—Each manufacturer shall submit the report required by subparagraph (A) to the Secretary by electronic means no later than 30 days after the end of a calendar quarter with respect to sales that occurred during such quarter. The Secretary shall prescribe the format and other requirements for the report.

''(E) Enforcement.—

''(i) FAILURE TO TIMELY REPORT.—The Secretary may impose a civil monetary penalty in an amount not to exceed $100,000 on a manufacturer that fails to provide the information required under this paragraph on a timely basis and in the manner required.

''(ii) FALSE INFORMATION.—For each item of false information, the Secretary may impose a civil money penalty in an amount not to exceed $100,000 on a manufacturer that knowingly provides false information under this paragraph.

''(iii) MANNER OF IMPOSITION OF CIVIL MONETARY PENALTIES.—The provisions in section 1128A (other than subsections (a) and (b)) shall apply to a civil monetary penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

''(F) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers under this paragraph is confidential and shall not be disclosed by the Secretary in any form other than as specifically authorized by this subsection.

''(2) CALCULATION OF PAYMENT AMOUNT—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the payment amount for a drug or biological furnished during a calendar quarter shall be 120 percent of the average sales price of the drug or biological for the second preceding calendar quarter as determined under paragraph (1).

''(B) METHODOLOGY.—In determining payment amounts under subparagraph (A), the Secretary may, in the Secretary's discretion, use either the average sales price for each drug or biological by specific drug or biological, or a cumulative average sales price based on sales data for all versions of a multiple-source drug that the Secretary, acting through the Food and Drug Administration, has determined are therapeutically equivalent (as evidenced by ''A'' ratings in the publication Approved Drug Products with Therapeutic Equivalence Evaluations).

''(C) INCREASE TO REFLECT ADDITIONAL. COSTS ATTRIBUTABLE TO STATE AND LOCAL TAXES.—In the case of a drug or biological that was subject to a State or local sales tax or gross receipts tax when administered or dispensed, the payment amount determined under subparagraph (A) shall be increased by the amount of such tax paid with respect to such drug or biological.

''(D) SUBSTITUTION OF HIGHER PAYMENT AMOUNT.—If a physician's, supplier's, or any other person's claim for payment for services under this Act documents that the price paid for a drug or biological was greater than the payment amount determined under subparagraph (A), the actual amount paid shall be substituted for the payment amount determined under subparagraph (A), unless the Secretary determines that the actual amount paid was unreasonable under the circumstances.

''(E) INCREASE FOR BAD DEBT AND CERTAIN OTHER COSTS.—Upon the submission of supporting information, the Secretary shall make an additional payment to a physician or supplier to cover—

''(i) uncollectible deductibles and coinsurance due from Medicare beneficiaries with respect to drugs and biologicals furnished to such beneficiaries; and

''(ii) costs incurred in procuring and billing for drugs and biologicals furnished to Medicare beneficiaries.''.

SEC. . MEDICARE PAYMENT FOR DRUG ADMINISTRATION SERVICES.

(a) GENERAL.—The Secretary of Health and Human Services (hereafter in this Act referred to as ''the Secretary'') shall revise the practice expense relative value units for drug administration services for years beginning with the year 2005 in accordance with this section. For purposes of this section, ''drug administration services'' includes chemotherapy administration services, therapeutic and diagnostic infusions and injections, and such other services as the Secretary specifies.

(b) DIRECT COSTS EQUAL TO 100 PERCENT OF CPEP ESTIMATES.— Using the information, including estimates of clinical staff time, developed in the clinical practice expert panel process, including refinements by American Medical Association committees, the Secretary shall estimate the costs of the nursing and other clinical staff, supplies, and procedure-specific equipment (exceeding a cost specified by the Secretary) used in furnishing each type of drug administration service. The Secretary shall utilize without revision the minutes of clinical staff time determined in such process. The Secretary shall convert the information from such process to estimated costs by applying the most current available data on staff salary, supply, and equipment costs, and such costs shall be updated to 2005 based on estimated changes in prices since the date of such data.

(c) TOTAL PRACTICE EXPENSES.—The Secretary shall estimate the total practice expenses of each drug administration service by assuming that the direct costs for the service determined under subsection (b) are 33.2 percent of such total practice expenses.

(d) CONVERSION TO RELATIVE VALUE UNITS.—The Secretary shall convert the total practice expenses determined under subsection (c) to practice expense relative value units for each drug administration service by dividing such expenses by the conversion factor that will be in effect for the physician fee schedule for 2005. The relative value units as so determined shall be used in determining the fee schedule amounts paid for drug administration services under section 1848 of the Social Security Act (42 U.S.C. 1395w–4).

(e) UPDATES.—For years after 2005, the relative values determined under subsection (d) shall continue in effect except that the Secretary shall revise them as necessary to maintain their accuracy, provided that such revisions are consistent with the methodology set forth in this section.

(f) MULTIPLE PUSHES.—In establishing the payment amounts under this section, the Secretary shall establish the payment amount for intravenous chemotherapy administration by push technique based of the administration of a single drug. The Secretary shall make the same payment for each additional drug administered by push technique during the same encounter, except to the extent that the Secretary finds that the cost of administering additional drugs is less than the cost of administering the first drug.

SEC. . PAYMENTS FOR CHEMOTHERAPY SUPPORT SERVICES.

(a) GENERAL.—Beginning in the year 2005, the Secretary shall recognize and make payments under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for chemotherapy support services furnished incident to physicians' services. For the purposes of this section, ''chemotherapy support services'' are services furnished by the staff of physicians to patients undergoing treatment for cancer that were not included in the computation of clinical staff costs under section 3(b). Such services include social worker services, nutrition counseling, psychosocial services, and similar services.

(b) DIRECT COSTS.—The Secretary shall estimate the cost of the salary and benefits of staff furnishing chemotherapy support services as they are provided in oncology practices that furnish these services to cancer patients in a manner that is considered to be high quality care. The estimate shall be based on the weekly cost of such services per patient receiving chemotherapy.

(c) TOTAL COSTS.—The Secretary shall estimate the total practice expenses of chemotherapy support services by assuming that the direct costs for the service determined under subsection (b) are 33.2 percent of such total practice expenses.

(d) CONVERSION TO RELATIVE VALUE UNITS.—The Secretary shall convert the total practice expenses determined under subsection (c) to practice expense relative value units for chemotherapy support services by dividing such expenses by the conversion factor that will be in effect for the physician fee schedule for 2005. The relative value units as so determined shall be used in determining the fee schedule amounts paid for chemotherapy support services under such section 1848.

(e) UPDATES.—For the years after 2005, the relative values determined under subsection (d) shall continue in effect except that the Secretary shall revise them as necessary to maintain their accuracy, provided that such revisions are consistent with the methodology set forth in this section.

SEC. . CANCER THERAPY MANAGEMENT SERVICES.

The Secretary shall recognize and establish a payment amount for the service of cancer therapy management to account for the greater pre-service and post-service work associated with visits and consultations conducted by physicians treating cancer patients compared to typical visits and consultations. The payment amount may vary by the level and type of the related visit or consultation.

SEC. . OTHER SERVICES WITHOUT PHYSICIAN WORK RELATIVE VALUE UNITS.

The Secretary shall develop a revised methodology for determining the payment amounts for services that are paid under the fee schedule established by section 1848 of the Social Security Act (42 U.S.C. 1395w–4) and that do not have physician work relative value units, including radiation oncology services. Such methodology shall result in payment amounts that fully cover the costs of furnishing such services. Until such time as the methodology for such services is revised and implemented, all such services shall be protected from further payment cuts due to factors such as shifts in utilization or removal of any one specialty's services that are paid under the fee schedule established by such section 1848 and that do not have physician work relative value units.

SEC. . PHYSICIAN SUPERVISION OF SERVICES.

Section 1834 of the Social Security Act (42 U.S.C. 1395m), as amended by section 2, is further amended by adding at the end the following new subsection:

''(o) SUPERVISION REQUIREMENTS—If the Secretary requires direct supervision of a service by a physician, that supervision requirement may be fulfilled by one or more physicians other than the physician who ordered the service. If the supervising physician is different from the ordering physician for a particular service, the ordering physician may nevertheless bill for such service provided that the medical records for the service involved identify the supervising physician or physicians.''.

SEC. . REPORT TO CONGRESS.

No later than April 1, 2004, the Secretary shall submit to Congress a report on the payment amounts that are projected to be adopted under sections 2, 3, 4, and 5 of this Act.

SEC. . INSTITUTE OF MEDICINE STUDY.

(a) GENERAL.—The Secretary of Health and Human Services shall request the Institute of Medicine to conduct the study described in this section.

(b) BASELINE STUDY.—The first phase of the study shall include the following objectives:

(1) An assessment of the extent to which the current Medicare payment system, prior to implementation of the amendments made by this Act, facilitates appropriate access to

care by cancer patients in the various treatment settings.

(2) The identification of the comprehensive range of services furnished to cancer patients in the outpatient setting, including support services such as psychosocial services and counseling, and recommendations regarding the types of services that ought to be furnished to Medicare patients with cancer.

(3) A discussion of the practice standards necessary to assure the safe provision of services to cancer patients.

(4) An analysis of the extent to which the current Medicare payment system supports the role of nurses in the provision of oncology services and recommendations for any necessary improvements in the payment system in that respect.

(5) The development of a framework for assessing how the amendments made by this act affect the provision of care to Medicare patients with cancer in the various treatment settings.

(c) SECOND PHASE OF STUDY.—After the implementation of the amendments made by this Act, the study shall determine whether and how those amendments affected the provision of care to Medicare patients with cancer.

(d) CONSULTATION.—The Institute of Medicine shall consult with the National Cancer Policy Board and organizations representing cancer patients and survivors, oncologists, oncology nurses, social workers, cancer centers, and other healthcare professionals who treat cancer patients in planning and carrying out this study.

(e) DUE DATES—

(1) The study required by subsection (b) shall be submitted to the Congress and the Secretary of Health and Human Services no later than June 30, 2004.

(2) The study required by subsection (c) shall be submitted to the Congress and the Secretary of Health and Human Services no later than December 31, 2006.

SEC. 10. EFFECTIVE DATES.

(a) GENERAL.—Except as provided in this section, the provisions of this Act shall apply to drugs, biologicals, and services furnished on or after January 1, 2005.

(b) REPORTS FROM MANUFACTURERS.—The first report by manufacturers required by the provisions of section 2 shall be submitted no later than October 30, 2004, with respect to sales that occurred in the quarter ending September 30, 2004.

(c) SUPERVISION OF SERVICES.—The amendment made by section 7 shall be effective upon enactment.

(d) SERVICES OTHER THAN DRUG ADMINISTRATION.—The Secretary shall implement the requirements of section 6 no later than January 1, 2005.

SA 1023. 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 B of title IV, insert the following:

SEC. ___. DEMONSTRATION PROJECT TO CLARIFY THE DEFINITION OF HOMEBOUND.

(a) DEMONSTRATION PROJECT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall conduct a two-year demonstration project under part B of title XVIII of the Social Security Act under which medicare beneficiaries with chronic conditions described in subsection (b) are deemed to be homebound for purposes of receiving home health services under the medicare program.

(b) MEDICARE BENEFICIARY DESCRIBED.—For purposes of subsection (a), a medicare beneficiary is eligible to be deemed to be homebound, without regard to the purpose, frequency, or duration of absences from the home, if the beneficiary—

(1) has been certified by one physician as an individual who has a permanent and severe condition that will not improve;

(2) requires the individual to receive assistance from another individual with at least 3 out of the 5 activities of daily living for the rest of the individual's life;

(3) requires 1 or more home health services to achieve a functional condition that gives the individual the ability to leave home; and

(4) requires technological assistance or the assistance of another person to leave the home.

(c) DEMONSTRATION PROJECT SITES.—The demonstration project established under this section shall be conducted in 3 States selected by the Secretary to represent the Northeast, Midwest, and Western regions of the United States.

(d) LIMITATION ON NUMBER OF PARTICIPANTS.—The aggregate number of such beneficiaries that may participate in the project may not exceed 15,000.

(e) DATA.—The Secretary shall collect such data on the demonstration project with respect to the provision of home health services to medicare beneficiaries that relates to quality of care, patient outcomes, and additional costs, if any, to the medicare program.

(f) REPORT TO CONGRESS.—Not later than 1 year after the date of the completion of the demonstration project under this section, the Secretary shall submit to Congress a report on the project using the data collected under subsection (e) and shall include—

(1) an examination of whether the provision of home health services to medicare beneficiaries under the project—

(A) adversely effects the provision of home health services under the medicare program; or

(B) directly causes an unreasonable increase of expenditures under the medicare program for the provision of such services that is directly attributable to such clarification;

(2) the specific data evidencing the amount of any increase in expenditures that is a directly attributable to the demonstration project (expressed both in absolute dollar terms and as a percentage) above expenditures that would otherwise have been incurred for home health services under the medicare program; and

(3) specific recommendations to exempt permanently and severely disabled homebound beneficiaries from restrictions on the length, frequency and purpose of their absences from the home to qualify for home health services without incurring additional unreasonable costs to the medicare program.

(g) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(h) CONSTRUCTION.—Nothing in this section shall be construed as waiving any applicable civil monetary penalty, criminal penalty, or other remedy available to the Secretary under title XI or title XVIII of the Social Security Act for acts prohibited under such titles, including penalties for false certifications for purposes of receipt of items or services under the medicare program.

(i) AUTHORIZATION OF APPROPRIATIONS.—Payments for the costs of carrying out the demonstration project under this section shall be made from the Federal Supplementary Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t).

(j) DEFINITIONS.—In this section:

(1) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual who is enrolled under part B of title XVIII of the Social Security Act.

(2) HOME HEALTH SERVICES.—The term ''home health services'' has the meaning given such term in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).

(3) ACTIVITIES OF DAILY LIVING DEFINED.—The term ''activities of daily living'' means eating, toileting, transferring, bathing, and dressing.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SA 1024. Mr. ENSIGN (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 appropriate place in title IV, insert the following:

SEC. ___. OUTPATIENT THERAPY CAP REPEAL.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395*l*) is amended by striking subsection (g).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2005.

SA 1025. Mr. ENSIGN 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 VI, insert the following:

SEC. ___. COST-BENEFIT EVALUATION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION II DEMONSTRATION PROJECT AND EXTENSION OF PROJECT AUTHORITY.

(a) EXTENSION.—Notwithstanding any other provision of law, the Social Health Maintenance Organization II demonstration project described under section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended, shall be conducted for an additional period of 5 years beginning October 1, 2004 under applicable contractual provisions existing on December 31, 2002. Such demonstration project shall be evaluated by an independent organization in accordance with subsection (b). The report on the evaluation and related recommendations shall be provided as described in subsection (c).

(b) EVALUATION.—

(1) RESEARCH DESIGN.—The Secretary shall provide for a project research design that includes information on the Medicare beneficiaries who are participating in the project and on other Medicare beneficiaries who are covered under fee-for-service and other Medicare+Choice plans and that allows for an appropriate statistical analysis and evaluation of the demonstration project by an independent organization.

(2) DATA COLLECTION.—The Secretary shall require the Social Health Maintenance Organization II to comply with such data collection and reporting requirements as the Secretary determines necessary in order that the assessments can be made as described under subsection (c)(2); and

(3) DURATION.—The project evaluation period shall last for a period of 3 years.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall issue to the Congress a final report on the project not later than 9 months after the date of the completion of the evaluation period.

(2) CONTENTS OF REPORT.—The report under paragraph (1) shall include the following:

(A) A description of the demonstration project and the distinguishing characteristics of the Social Health Maintenance Organization II project, including the project's geriatric approach to patient care, extensive care coordination and patient assessments, provision of extended benefits to beneficiaries with targeted health risks, and risk adjusted payment methodology.

(B) An evaluation of—

(i) the cost-effectiveness of the project compared to the comparison group with respect to the extent of any delay or reduction in the incidence or length of stay in nursing homes or similar institutions and the estimated Medicare and Medicaid cost savings relating to such delay or reductions,

(ii) the extent to which the utilization of physician, home health, coordinated care, geriatric, prescription drug, extended care benefits and other services which are unique to the project result in any reduction in the incidence or length of inpatient stays and in the improvement or lessening in the deterioration of the physical status and mental health functioning of beneficiaries, and

(iii) the feasibility of replicating the elements of the Social Health Maintenance Organization II model under other Medicare+Choice plans.

To the extent feasible, an evaluation of the elements described in this subparagraph shall be conducted on a longitudinal basis for noninstitutionalized beneficiaries who are at high risk of hospitalization or institutionalization, for other noninstitutionalized beneficiaries who are not at high risk, and for institutionalized beneficiaries. To the extent feasible such evaluations shall be conducted for appropriate age and gender beneficiary categories.

(C) A description of the data and criteria and methodology used in conducting the evaluation.

(D) Any other information regarding the project that the Secretary determines to be appropriate and any recommendations the Secretary may make regarding the extent to which changes should be made in connection with the project or the extension of the project as a model under the Medicare+Choice program.

(d) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the demonstration project described under subsection (a).

(2) MEDICARE BENEFICIARY.—The term ''Medicare beneficiary'' means an individual entitled to benefits under part A and covered under part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(3) MEDICARE.—The term ''Medicare'' means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) MEDICARE+CHOICE.—The term ''Medicare+Choice'' means the Medicare+Choice health benefits program described under part C of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and for years after 2005, the MedicareAdvantage program described under such part.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(6) SOCIAL HEALTH MAINTENANCE ORGANIZATION II.—The term ''Social Health Maintenance Organization II'' means the project described under section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended.

(e) EFFECTIVE DATE.—The effective date of this section is the date of the enactment of this Act.

SA 1026. Mr. HAGEL (for himself, Mr. ENSIGN, Mr. LOTT, and Mr. INHOFE) 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:

(Purpose: To provide medicare beneficiaries with a drug discount card that ensures access to privately-negotiated discounts on drugs and protection against high and out-of-pocket drug costs)

Strike title I and insert the following:

TITLE I—MEDICARE PRESCRIPTION DRUG DISCOUNT

SEC. 101. VOLUNTARY MEDICARE PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended—

(1) by redesignating part D as part E; and

(2) by inserting after part C the following new part:

''PART D—VOLUNTARY MEDICARE PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM

''DEFINITIONS

''SEC. 1860. In this part:

''(1) COVERED DRUG.—

''(A) IN GENERAL.—Except as provided in this paragraph, the term 'covered drug' means—

''(i) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

''(ii) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes a vaccine licensed under section 351 of the Public Health Service Act and any use of a covered drug for a medically accepted indication (as defined in section 1927(k)(6)).

''(B) EXCLUSIONS.—

''(i) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents), or under section 1927(d)(3).

''(ii) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered if payment for such drug is available under part A or B for an individual entitled to benefits under part A and enrolled under part B.

''(C) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered drug under this part shall not be so considered under a plan if the plan excludes the drug under a formulary and such exclusion is not successfully appealed under section 1860D(a)(4)(B).

''(D) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—A prescription drug discount card plan or Medicare+Choice plan may exclude from qualified prescription drug coverage any covered drug—

''(i) for which payment would not be made if section 1862(a) applied to part D; or

''(ii) which are not prescribed in accordance with the plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860D(a)(4).

''(2) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual who is—

''(A) eligible for benefits under part A or enrolled under part B; and

''(B) not eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means any—

''(A) pharmaceutical benefit management company;

''(B) wholesale pharmacy delivery system;

''(C) retail pharmacy delivery system;

''(D) insurer (including any issuer of a medicare supplemental policy under section 1882);

''(E) Medicare+Choice organization;

''(F) State (in conjunction with a pharmaceutical benefit management company);

''(G) employer-sponsored plan;

''(H) other entity that the Secretary determines to be appropriate to provide benefits under this part; or

''(I) combination of the entities described in subparagraphs (A) through (H).

''(4) POVERTY LINE.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services.

''ESTABLISHMENT OF PROGRAM

''SEC. 1860A. (a) PROVISION OF BENEFIT.—The Secretary shall establish a Medicare Prescription Drug Discount and Security Program under which the Secretary endorses prescription drug card plans offered by eligible entities in which eligible beneficiaries may voluntarily enroll and receive benefits under this part.

''(b) ENDORSEMENT OF PRESCRIPTION DRUG DISCOUNT CARD PLANS.—

''(1) IN GENERAL.—The Secretary shall endorse a prescription drug card plan offered by an eligible entity with a contract under this part if the eligible entity meets the requirements of this part with respect to that plan.

''(2) NATIONAL PLANS.—In addition to other types of plans, the Secretary may endorse national prescription drug plans under paragraph (1).

''(c) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program under this part.

''(d) FINANCING.—The costs of providing benefits under this part shall be payable from the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

''ENROLLMENT

''SEC. 1860B. (a) ENROLLMENT UNDER PART D.—

''(1) ESTABLISHMENT OF PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Except as otherwise provided in this subsection, such process shall be similar to the process for enrollment under part B under section 1837.

''(B) REQUIREMENT OF ENROLLMENT.—An eligible beneficiary must enroll under this part in order to be eligible to receive the benefits under this part.

''(2) ENROLLMENT PERIODS.—

''(A) IN GENERAL.—Except as provided in this paragraph, an eligible beneficiary may not enroll in the program under this part during any period after the beneficiary's initial enrollment period under part B (as determined under section 1837).

''(B) SPECIAL ENROLLMENT PERIOD.—In the case of eligible beneficiaries that have recently lost eligibility for prescription drug coverage under a State plan under the medicaid program under title XIX, the Secretary shall establish a special enrollment period in which such beneficiaries may enroll under this part.

''(C) OPEN ENROLLMENT PERIOD IN 2005 FOR CURRENT BENEFICIARIES.—The Secretary shall establish a period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may—

''(i) enroll under this part; or

''(ii) enroll or reenroll under this part after having previously declined or terminated such enrollment.

''(3) PERIOD OF COVERAGE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to subparagraph (C), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided under section 1838, as if that section applied to the program under this part.

''(B) ENROLLMENT DURING OPEN AND SPECIAL ENROLLMENT.—Subject to subparagraph (C), an eligible beneficiary who enrolls under the program under this part under subparagraph (B) or (C) of paragraph (2) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(4) PART D COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B OR ELIGIBILITY FOR MEDICAL ASSISTANCE.—

''(A) IN GENERAL.—In addition to the causes of termination specified in section 1838, the Secretary shall terminate an individual's coverage under this part if the individual is—

''(i) no longer enrolled in part A or B; or

''(ii) eligible for prescription drug coverage under a State plan under the medicaid program under title XIX.

''(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of—

''(i) the termination of coverage under part A or (if later) under part B; or

''(ii) the coverage under title XIX.

''(b) ENROLLMENT WITH ELIGIBLE ENTITY.—

''(1) PROCESS.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part shall make an annual election to enroll in a prescription drug card plan offered by an eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides.

''(2) ELECTION PERIODS.—

''(A) IN GENERAL.—Except as provided in this paragraph, the election periods under this subsection shall be the same as the coverage election periods under the Medicare+Choice program under section 1851(e), including—

''(i) annual coordinated election periods; and

''(ii) special election periods.

In applying the last sentence of section 1851(e)(4) (relating to discontinuance of a Medicare+Choice election during the first year of eligibility) under this subparagraph, in the case of an election described in such section in which the individual had elected or is provided qualified prescription drug coverage at the time of such first enrollment, the individual shall be permitted to enroll in a prescription drug card plan under this part at the time of the election of coverage under the original fee-for-service plan.

''(B) INITIAL ELECTION PERIODS.—

''(i) INDIVIDUALS CURRENTLY COVERED.—In the case of an individual who is entitled to benefits under part A or enrolled under part B as of November 1, 2005, there shall be an initial election period of 6 months beginning on that date.

''(ii) INDIVIDUAL COVERED IN FUTURE.—In the case of an individual who is first entitled to benefits under part A or enrolled under part B after such date, there shall be an initial election period which is the same as the initial enrollment period under section 1837(d).

''(C) ADDITIONAL SPECIAL ELECTION PERIODS.—The Administrator shall establish special election periods—

''(i) in cases of individuals who have and involuntarily lose prescription drug coverage described in paragraph (3);

''(ii) in cases described in section 1837(h) (relating to errors in enrollment), in the same manner as such section applies to part B; and

''(iii) in the case of an individual who meets such exceptional conditions (including conditions provided under section 1851(e)(4)(D)) as the Secretary may provide.

''(D) ENROLLMENT WITH ONE PLAN ONLY.—The rules established under subparagraph (B) shall ensure that an eligible beneficiary may only enroll in 1 prescription drug card plan offered by an eligible entity per year.

''(3) MEDICARE+CHOICE ENROLLEES.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization must enroll in a prescription drug discount card plan offered by an eligible entity in order to receive benefits under this part. The beneficiary may elect to receive such benefits through the Medicare+Choice organization in which the beneficiary is enrolled if the organization has been awarded a contract under this part.

''(4) CONTINUOUS PRESCRIPTION DRUG COVERAGE.—An individual is considered for purposes of this part to be maintaining continuous prescription drug coverage on and after the date the individual first qualifies to elect prescription drug coverage under this part if the individual establishes that as of such date the individual is covered under any of the following prescription drug coverage and before the date that is the last day of the 63-day period that begins on the date of termination of the particular prescription drug coverage involved (regardless of whether the individual subsequently obtains any of the following prescription drug coverage):

''(A) COVERAGE UNDER PRESCRIPTION DRUG CARD PLAN OR MEDICARE+CHOICE PLAN.—Prescription drug coverage under a prescription drug card plan under this part or under a Medicare+Choice plan.

''(B) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(C) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined by the Secretary), but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

''(D) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs (whether or not such coverage conforms to the standards for packages of benefits under section 1882(p)(1)) and if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

''(E) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

''(F) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code, but only if (subject to subparagraph (E)(ii)) the coverage provides benefits at least equivalent to the benefits under a prescription drug card plan under this part.

For purposes of carrying out this paragraph, the certifications of the type described in sections 2701(e) of the Public Health Service Act and in section 9801(e) of the Internal Revenue Code of 1986 shall also include a statement for the period of coverage of whether the individual involved had prescription drug coverage described in this paragraph.

''(5) COMPETITION.—Each eligible entity with a contract under this part shall compete for the enrollment of beneficiaries in a prescription drug card plan offered by the entity on the basis of discounts, formularies, pharmacy networks, and other services provided for under the contract.

''PROVIDING ENROLLMENT AND COVERAGE INFORMATION TO BENEFICIARIES

''SEC. 1860C. (a) ACTIVITIES.—The Secretary shall provide for activities under this part to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding enrollment under this part and the prescription drug card plans offered by eligible entities with a contract under this part.

''(b) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in subsection (a) shall ensure that eligible beneficiaries are provided with such information at least 60 days prior to the first enrollment period described in section 1860B(c).

''ENROLLEE PROTECTIONS

''SEC. 1860D. (a) REQUIREMENTS FOR ALL ELIGIBLE ENTITIES.—Each eligible entity shall meet the following requirements:

''(1) GUARANTEED ISSUANCE AND NONDISCRIMINATION.—

''(A) GUARANTEED ISSUANCE.—

''(i) IN GENERAL.—An eligible beneficiary who is eligible to enroll in a prescription drug card plan offered by an eligible entity under section 1860B(b) for prescription drug coverage under this part at a time during which elections are accepted under this part with respect to the coverage shall not be denied enrollment based on any health status-related factor (described in section 2702(a)(1) of the Public Health Service Act) or any other factor.

''(ii) MEDICARE+CHOICE LIMITATIONS PERMITTED.—The provisions of paragraphs (2) and (3) (other than subparagraph (C)(i), relating to default enrollment) of section 1851(g) (relating to priority and limitation on termination of election) shall apply to eligible entities under this subsection.

''(B) NONDISCRIMINATION.—An eligible entity offering prescription drug coverage under this part shall not establish a service area in a manner that would discriminate based on health or economic status of potential enrollees.

''(2) DISCLOSURE OF INFORMATION.—

''(A) INFORMATION.—

''(i) GENERAL INFORMATION.—Each eligible entity with a contract under this part to provide a prescription drug card plan shall disclose, in a clear, accurate, and standardized form to each eligible beneficiary enrolled in a prescription drug discount card program offered by such entity under this part at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such prescription drug coverage.

''(ii) SPECIFIC INFORMATION.—In addition to the information described in clause (i), each eligible entity with a contract under this part shall disclose the following:

''(I) How enrollees will have access to covered drugs, including access to such drugs through pharmacy networks.

''(II) How any formulary used by the eligible entity functions.

''(III) Information on grievance and appeals procedures.

''(IV) Information on enrollment fees and prices charged to the enrollee for covered drugs.

''(V) Any other information that the Secretary determines is necessary to promote informed choices by eligible beneficiaries among eligible entities.

''(B) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an eligible beneficiary, the eligible entity shall provide the information described in paragraph (3) to such beneficiary.

''(C) RESPONSE TO BENEFICIARY QUESTIONS.—Each eligible entity offering a prescription drug discount card plan under this part shall have a mechanism for providing specific information to enrollees upon request. The entity shall make available, through an Internet website and, upon request, in writing, information on specific changes in its formulary.

''(3) GRIEVANCE MECHANISM, COVERAGE DETERMINATIONS, AND RECONSIDERATIONS.—

''(A) IN GENERAL.—With respect to the benefit under this part, each eligible entity offering a prescription drug discount card plan shall provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the eligible entity provides covered benefits) and enrollees with prescription drug card plans of the eligible entity under this part in accordance with section 1852(f).

''(B) APPLICATION OF COVERAGE DETERMINATION AND RECONSIDERATION PROVISIONS.—Each eligible entity shall meet the requirements of paragraphs (1) through (3) of section 1852(g) with respect to covered benefits under the prescription drug card plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(C) REQUEST FOR REVIEW OF TIERED FORMULARY DETERMINATIONS.—In the case of a prescription drug card plan offered by an eligible entity that provides for tiered cost-sharing for drugs included within a formulary and provides lower cost-sharing for preferred drugs included within the formulary, an individual who is enrolled in the plan may request coverage of a nonpreferred drug under the terms applicable for preferred drugs if the prescribing physician determines that the preferred drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(4) APPEALS.—

''(A) IN GENERAL.—Subject to subparagraph (B), each eligible entity offering a prescription drug card plan shall meet the requirements of paragraphs (4) and (5) of section 1852(g) with respect to drugs not included on any formulary in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(B) FORMULARY DETERMINATIONS.—An individual who is enrolled in a prescription drug card plan offered by an eligible entity may appeal to obtain coverage under this part for a covered drug that is not on a formulary of the eligible entity if the prescribing physician determines that the formulary drug for treatment of the same condition is not as effective for the individual or has adverse effects for the individual.

''(5) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each eligible entity offering a prescription drug discount card plan shall meet the requirements of the Health Insurance Portability and Accountability Act of 1996.

''(b) ELIGIBLE ENTITIES OFFERING A DISCOUNT CARD PROGRAM.—If an eligible entity offers a discount card program under this part, in addition to the requirements under subsection (a), the entity shall meet the following requirements:

''(1) ACCESS TO COVERED BENEFITS.—

''(A) ASSURING PHARMACY ACCESS.—

''(i) IN GENERAL.—The eligible entity offering the prescription drug discount card plan shall secure the participation in its network of a sufficient number of pharmacies that dispense (other than by mail order) drugs directly to patients to ensure convenient access (as determined by the Secretary and including adequate emergency access) for enrolled beneficiaries, in accordance with standards established under section 1860D(a)(3) that ensure such convenient access.

''(ii) USE OF POINT-OF-SERVICE SYSTEM.—Each eligible entity offering a prescription drug discount card plan shall establish an optional point-of-service method of operation under which—

''(I) the plan provides access to any or all pharmacies that are not participating pharmacies in its network; and

''(II) discounts under the plan may not be available.

The additional copayments so charged shall not be counted as out-of-pocket expenses for purposes of section 1860F(b).

''(B) USE OF STANDARDIZED TECHNOLOGY.—

''(i) IN GENERAL.—Each eligible entity offering a prescription drug discount card plan shall issue (and reissue, as appropriate) such a card (or other technology) that may be used by an enrolled beneficiary to assure access to negotiated prices under section 1860F(a) for the purchase of prescription drugs for which coverage is not otherwise provided under the prescription drug discount card plan.

''(ii) STANDARDS.—The Secretary shall provide for the development of national standards relating to a standardized format for the card or other technology referred to in clause (i). Such standards shall be compatible with standards established under part C of title XI.

''(C) REQUIREMENTS ON DEVELOPMENT AND APPLICATION OF FORMULARIES.—If an eligible entity that offers a prescription drug discount card plan uses a formulary, the following requirements must be met:

''(i) PHARMACY AND THERAPEUTIC (P&T) COMMITTEE.—The eligible entity must establish a pharmacy and therapeutic committee that develops and reviews the formulary. Such committee shall include at least 1 physician and at least 1 pharmacist both with expertise in the care of elderly or disabled persons and a majority of its members shall consist of individuals who are a physician or a practicing pharmacist (or both).

''(ii) FORMULARY DEVELOPMENT.—In developing and reviewing the formulary, the committee shall base clinical decisions on the strength of scientific evidence and standards of practice, including assessing peer-reviewed medical literature, such as randomized clinical trials, pharmacoeconomic studies, outcomes research data, and such other information as the committee determines to be appropriate.

''(iii) INCLUSION OF DRUGS IN ALL THERAPEUTIC CATEGORIES.—The formulary must include drugs within each therapeutic category and class of covered drugs (although not necessarily for all drugs within such categories and classes).

''(iv) PROVIDER EDUCATION.—The committee shall establish policies and procedures to educate and inform health care providers concerning the formulary.

''(v) NOTICE BEFORE REMOVING DRUGS FROM FORMULARY.—Any removal of a drug from a formulary shall take effect only after appropriate notice is made available to beneficiaries and physicians.

''(vi) GRIEVANCES AND APPEALS RELATING TO APPLICATION OF FORMULARIES.—For provisions relating to grievances and appeals of coverage, see paragraphs (3) and (4) of section 1860D(a).

''(2) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(A) IN GENERAL.—Each eligible entity offering a prescription drug discount card plan shall have in place with respect to covered drugs—

''(i) an effective cost and drug utilization management program, including medically appropriate incentives to use generic drugs and therapeutic interchange, when appropriate;

''(ii) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in subparagraph (B); and

''(iii) a program to control fraud, abuse, and waste.

Nothing in this section shall be construed as impairing an eligible entity from applying cost management tools (including differential payments) under all methods of operation.

''(B) MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(i) IN GENERAL.—A medication therapy management program described in this paragraph is a program of drug therapy management and medication administration that is

designed to ensure, with respect to beneficiaries with chronic diseases (such as diabetes, asthma, hypertension, and congestive heart failure) or multiple prescriptions, that covered drugs under the prescription drug discount card plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(ii) ELEMENTS.—Such program may include—

''(I) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means;

''(II) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means; and

''(III) detection of patterns of overuse and underuse of prescription drugs.

''(iii) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

''(iv) CONSIDERATIONS IN PHARMACY FEES.—Each eligible entity offering a prescription drug discount card plan shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(C) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to prescription drug discount card plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

''(i) Paragraph (1) (including quality assurance), including any medication therapy management program under paragraph (2).

''(ii) Subsection (c)(1) (relating to access to covered benefits).

''(iii) Subsection (g) (relating to confidentiality and accuracy of enrollee records).

''(D) PUBLIC DISCLOSURE OF PHARMACEUTICAL PRICES FOR EQUIVALENT DRUGS.—Each eligible entity offering a prescription drug discount card plan shall provide that each pharmacy or other dispenser that arranges for the dispensing of a covered drug shall inform the beneficiary at the time of purchase of the drug of any differential between the price of the prescribed drug to the enrollee and the price of the lowest cost drug covered under the plan that is therapeutically equivalent and bioequivalent.

''ANNUAL ENROLLMENT FEE

''SEC. 1860E. (a) AMOUNT.—

''(1) IN GENERAL.—Except as provided in subsection (c), enrollment under the program under this part is conditioned upon payment of an annual enrollment fee of $25.

''(2) ANNUAL PERCENTAGE INCREASE.—

''(A) IN GENERAL.—In the case of any calendar year beginning after 2006, the dollar amount in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount; multiplied by

''(ii) the inflation adjustment.

''(B) INFLATION ADJUSTMENT.—For purposes of subparagraph (A)(ii), the inflation adjustment for any calendar year is the percentage (if any) by which—

''(i) the average per capita aggregate expenditures for covered drugs in the United States for medicare beneficiaries, as determined by the Secretary for the 12-month period ending in July of the previous year; exceeds

''(ii) such aggregate expenditures for the 12-month period ending with July 2005.

''(C) ROUNDING.—If any increase determined under clause (ii) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''(b) COLLECTION OF ANNUAL ENROLLMENT FEE.—

''(1) IN GENERAL.—Unless the eligible beneficiary makes an election under paragraph (2), the annual enrollment fee described in subsection (a) shall be collected and credited to the Federal Supplementary Medical Insurance Trust Fund in the same manner as the monthly premium determined under section 1839 is collected and credited to such Trust Fund under section 1840.

''(2) DIRECT PAYMENT.—An eligible beneficiary may elect to pay the annual enrollment fee directly or in any other manner approved by the Secretary. The Secretary shall establish procedures for making such an election.

''(c) WAIVER.—The Secretary shall waive the enrollment fee described in subsection (a) in the case of an eligible beneficiary whose income is below 200 percent of the poverty line.

''BENEFITS UNDER THE PROGRAM

''SEC. 1860F. (a) ACCESS TO NEGOTIATED PRICES.—

''(1) NEGOTIATED PRICES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each prescription drug card plan offering a discount card program by an eligible entity with a contract under this part shall provide each eligible beneficiary enrolled in such plan with access to negotiated prices (including applicable discounts) for such prescription drugs as the eligible entity determines appropriate. Such discounts may include discounts for nonformulary drugs. If such a beneficiary becomes eligible for the catastrophic benefit under subsection (b), the negotiated prices (including applicable discounts) shall continue to be available to the beneficiary for those prescription drugs for which payment may not be made under section 1860H(b). For purposes of this subparagraph, the term 'prescription drugs' is not limited to covered drugs, but does not include any over-the-counter drug that is not a covered drug.

''(B) LIMITATIONS.—

''(i) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the negotiated prices (including applicable discounts) for nonformulary drugs may differ.

''(ii) AVOIDANCE OF DUPLICATE COVERAGE.—The negotiated prices (including applicable discounts) for prescription drugs shall not be available for any drug prescribed for an eligible beneficiary if payment for the drug is available under part A or B (but such negotiated prices shall be available if payment under part A or B is not available because the beneficiary has not met the deductible or has exhausted benefits under part A or B).

''(2) DISCOUNT CARD.—The Secretary shall develop a uniform standard card format to be issued by each eligible entity offering a prescription drug discount card plan that shall be used by an enrolled beneficiary to ensure the access of such beneficiary to negotiated prices under paragraph (1).

''(3) ENSURING DISCOUNTS IN ALL AREAS.—The Secretary shall develop procedures that ensure that each eligible beneficiary that resides in an area where no prescription drug discount card plans are available is provided with access to negotiated prices for prescription drugs (including applicable discounts).

''(b) CATASTROPHIC BENEFIT.—

''(1) TEN PERCENT COST-SHARING.—Subject to any formulary used by the prescription drug discount card program in which the eligible beneficiary is enrolled, the catastrophic benefit shall provide benefits with cost-sharing that is equal to 10 percent of the negotiated price (taking into account any applicable discounts) of each drug dispensed to such beneficiary after the beneficiary has incurred costs (as described in paragraph (3)) for covered drugs in a year equal to the applicable annual out-of-pocket limit specified in paragraph (2).

''(2) ANNUAL OUT-OF-POCKET LIMITS.—For purposes of this part, the annual out-of-pocket limits specified in this paragraph are as follows:

''(A) BENEFICIARIES WITH ANNUAL INCOMES BELOW 200 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as determined under section 1860I) is below 200 percent of the poverty line, the annual out-of-pocket limit is equal to $1,500.

''(B) BENEFICIARIES WITH ANNUAL INCOMES BETWEEN 200 AND 400 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as so determined) equals or exceeds 200 percent, but does not exceed 400 percent, of the poverty line, the annual out-of-pocket limit is equal to $3,500.

''(C) BENEFICIARIES WITH ANNUAL INCOMES BETWEEN 400 AND 600 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as so determined) equals or exceeds 400 percent, but does not exceed 600 percent, of the poverty line, the annual out-of-pocket limit is equal to $5,500.

''(D) BENEFICIARIES WITH ANNUAL INCOMES THAT EXCEED 600 PERCENT OF THE POVERTY LINE.—In the case of an eligible beneficiary whose income (as so determined) equals or exceeds 600 percent of the poverty line, the annual out-of-pocket limit is an amount equal to 20 percent of that beneficiary's income for that year (rounded to the nearest multiple of $1).

''(3) APPLICATION.—In applying paragraph (2), incurred costs shall only include those expenses for covered drugs that are incurred by the eligible beneficiary using a card approved by the Secretary under this part that are paid by that beneficiary and for which the beneficiary is not reimbursed (through insurance or otherwise) by another person.

''(4) ANNUAL PERCENTAGE INCREASE.—

''(A) IN GENERAL.—In the case of any calendar year after 2006, the dollar amounts in subparagraphs (A), (B), and (C) of paragraph (2) shall be increased by an amount equal to—

''(i) such dollar amount; multiplied by

''(ii) the inflation adjustment determined under section 1860E(a)(2)(B) for such calendar year.

''(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

''(5) ELIGIBLE ENTITY NOT AT FINANCIAL RISK FOR CATASTROPHIC BENEFIT.—

''(A) IN GENERAL.—The Secretary, and not the eligible entity, shall be at financial risk for the provision of the catastrophic benefit under this subsection.

''(B) PROVISIONS RELATING TO PAYMENTS TO ELIGIBLE ENTITIES.—For provisions relating to payments to eligible entities for administering the catastrophic benefit under this subsection, see section 1860H.

''(6) ENSURING CATASTROPHIC BENEFIT IN ALL AREAS.—The Secretary shall develop procedures for the provision of the catastrophic benefit under this subsection to each eligible beneficiary that resides in an area where there are no prescription drug discount card plans offered that have been awarded a contract under this part.

''REQUIREMENTS FOR ENTITIES TO PROVIDE PRESCRIPTION DRUG COVERAGE

''SEC. 1860G. (a) ESTABLISHMENT OF BIDDING PROCESS.—The Secretary shall establish a process under which the Secretary accepts bids from eligible entities and awards contracts to the entities to provide the benefits

under this part to eligible beneficiaries in an area.

''(b) SUBMISSION OF BIDS.—Each eligible entity desiring to enter into a contract under this part shall submit a bid to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(c) ADMINISTRATIVE FEE BID.—

''(1) SUBMISSION.—For the bid described in subsection (b), each entity shall submit to the Secretary information regarding administration of the discount card and catastrophic benefit under this part.

''(2) BID SUBMISSION REQUIREMENTS.—

''(A) ADMINISTRATIVE FEE BID SUBMISSION.—In submitting bids, the entities shall include separate costs for administering the discount card component, if applicable, and the catastrophic benefit. The entity shall submit the administrative fee bid in a form and manner specified by the Secretary, and shall include a statement of projected enrollment and a separate statement of the projected administrative costs for at least the following functions:

''(i) Enrollment, including income eligibility determination.

''(ii) Claims processing.

''(iii) Quality assurance, including drug utilization review.

''(iv) Beneficiary and pharmacy customer service.

''(v) Coordination of benefits.

''(vi) Fraud and abuse prevention.

''(B) NEGOTIATED ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary has the authority to negotiate regarding the bid amounts submitted. The Secretary may reject a bid if the Secretary determines it is not supported by the administrative cost information provided in the bid as specified in subparagraph (A).

''(C) PAYMENT TO PLANS BASED ON ADMINISTRATIVE FEE BID AMOUNTS.—The Secretary shall use the bid amounts to calculate a benchmark amount consisting of the enrollment-weighted average of all bids for each function and each class of entity. The class of entity is either a regional or national entity, or such other classes as the Secretary may determine to be appropriate. The functions are the discount card and catastrophic components. If an eligible entity's combined bid for both functions is above the combined benchmark within the entity's class for the functions, the eligible entity shall collect additional necessary revenue through 1 or both of the following:

''(i) Additional fees charged to the beneficiary, not to exceed $25 annually.

''(ii) Use of rebate amounts from drug manufacturers to defray administrative costs.

''(d) AWARDING OF CONTRACTS.—

''(1) IN GENERAL.—The Secretary shall, consistent with the requirements of this part and the goal of containing medicare program costs, award at least 2 contracts in each area, unless only 1 bidding entity meets the terms and conditions specified by the Secretary under paragraph (2).

''(2) TERMS AND CONDITIONS.—The Secretary shall not award a contract to an eligible entity under this section unless the Secretary finds that the eligible entity is in compliance with such terms and conditions as the Secretary shall specify.

''(3) REQUIREMENTS FOR ELIGIBLE ENTITIES PROVIDING DISCOUNT CARD PROGRAM.—Except as provided in subsection (e), in determining which of the eligible entities that submitted bids that meet the terms and conditions specified by the Secretary under paragraph (2) to award a contract, the Secretary shall consider whether the bid submitted by the entity meets at least the following requirements:

''(A) LEVEL OF SAVINGS TO MEDICARE BENEFICIARIES.—The program passes on to medicare beneficiaries who enroll in the program discounts on prescription drugs, including discounts negotiated with manufacturers.

''(B) PROHIBITION ON APPLICATION ONLY TO MAIL ORDER.—The program applies to drugs that are available other than solely through mail order and provides convenient access to retail pharmacies.

''(C) LEVEL OF BENEFICIARY SERVICES.—The program provides pharmaceutical support services, such as education and services to prevent adverse drug interactions.

''(D) ADEQUACY OF INFORMATION.—The program makes available to medicare beneficiaries through the Internet and otherwise information, including information on enrollment fees, prices charged to beneficiaries, and services offered under the program, that the Secretary identifies as being necessary to provide for informed choice by beneficiaries among endorsed programs.

''(E) EXTENT OF DEMONSTRATED EXPERIENCE.—The entity operating the program has demonstrated experience and expertise in operating such a program or a similar program.

''(F) EXTENT OF QUALITY ASSURANCE.—The entity has in place adequate procedures for assuring quality service under the program.

''(G) OPERATION OF ASSISTANCE PROGRAM.—The entity meets such requirements relating to solvency, compliance with financial reporting requirements, audit compliance, and contractual guarantees as specified by the Secretary.

''(H) PRIVACY COMPLIANCE.—The entity implements policies and procedures to safeguard the use and disclosure of program beneficiaries' individually identifiable health information in a manner consistent with the Federal regulations (concerning the privacy of individually identifiable health information) promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''(I) ADDITIONAL BENEFICIARY PROTECTIONS.—The program meets such additional requirements as the Secretary identifies to protect and promote the interest of medicare beneficiaries, including requirements that ensure that beneficiaries are not charged more than the lower of the negotiated retail price or the usual and customary price.

The prices negotiated by a prescription drug discount card program endorsed under this section shall (notwithstanding any other provision of law) not be taken into account for the purposes of establishing the best price under section 1927(c)(1)(C).

''(4) BENEFICIARY ACCESS TO SAVINGS AND REBATES.—The Secretary shall require eligible entities offering a discount card program to pass on savings and rebates negotiated with manufacturers to eligible beneficiaries enrolled with the entity.

''(5) NEGOTIATED AGREEMENTS WITH EMPLOYER-SPONSORED PLANS.—Notwithstanding any other provision of this part, the Secretary may negotiate agreements with employer-sponsored plans under which eligible beneficiaries are provided with a benefit for prescription drug coverage that is more generous than the benefit that would otherwise have been available under this part if such an agreement results in cost savings to the Federal Government.

''(e) REQUIREMENTS FOR OTHER ELIGIBLE ENTITIES.—An eligible entity that is licensed under State law to provide the health insurance benefits under this section shall be required to meet the requirements of subsection (d)(3). If an eligible entity offers a national plan, such entity shall not be required to meet the requirements of subsection (d)(3), but shall meet the requirements of Employee Retirement Income Security Act of 1974 that apply with respect to such plan.

''PAYMENTS TO ELIGIBLE ENTITIES FOR ADMINISTERING THE CATASTROPHIC BENEFIT

''SEC. 1860H. (a) IN GENERAL.—The Secretary may establish procedures for making payments to an eligible entity under a contract entered into under this part for—

''(1) the costs of providing covered drugs to beneficiaries eligible for the benefit under this part in accordance with subsection (b) minus the amount of any cost-sharing collected by the eligible entity under section 1860F(b); and

''(2) costs incurred by the entity in administering the catastrophic benefit in accordance with section 1860G.

''(b) PAYMENT FOR COVERED DRUGS.—

''(1) IN GENERAL.—Except as provided in subsection (c) and subject to paragraph (2), the Secretary may only pay an eligible entity for covered drugs furnished by the eligible entity to an eligible beneficiary enrolled with such entity under this part that is eligible for the catastrophic benefit under section 1860F(b).

''(2) LIMITATIONS.—

''(A) FORMULARY RESTRICTIONS.—Insofar as an eligible entity with a contract under this part uses a formulary, the Secretary may not make any payment for a covered drug that is not included in such formulary, except to the extent provided under section 1860D(a)(4)(B).

''(B) NEGOTIATED PRICES.—The Secretary may not pay an amount for a covered drug furnished to an eligible beneficiary that exceeds the negotiated price (including applicable discounts) that the beneficiary would have been responsible for under section 1860F(a) or the price negotiated for insurance coverage under the Medicare+Choice program under part C, a medicare supplemental policy, employer-sponsored coverage, or a State plan.

''(C) COST-SHARING LIMITATIONS.—An eligible entity may not charge an individual enrolled with such entity who is eligible for the catastrophic benefit under this part any copayment, tiered copayment, coinsurance, or other cost-sharing that exceeds 10 percent of the cost of the drug that is dispensed to the individual.

''(3) PAYMENT IN COMPETITIVE AREAS.—In a geographic area in which 2 or more eligible entities offer a plan under this part, the Secretary may negotiate an agreement with the entity to reimburse the entity for costs incurred in providing the benefit under this part on a capitated basis.

''(c) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

''DETERMINATION OF INCOME LEVELS

''SEC. 1860I. (a) DETERMINATION OF INCOME LEVELS.—

''(1) IN GENERAL.—The Secretary shall establish procedures under which each eligible entity awarded a contract under this part determines the income levels of eligible beneficiaries enrolled in a prescription drug card plan offered by that entity at least annually for purposes of sections 1860E(c) and 1860F(b).

''(2) PROCEDURES.—The procedures established under paragraph (1) shall require each eligible beneficiary to submit such information as the eligible entity requires to make the determination described in paragraph (1).

''(b) ENFORCEMENT OF INCOME DETERMINATIONS.—The Secretary shall—

''(1) establish procedures that ensure that eligible beneficiaries comply with sections 1860E(c) and 1860F(b); and

''(2) require, if the Secretary determines that payments were made under this part to which an eligible beneficiary was not entitled, the repayment of any excess payments with interest and a penalty.

''(c) QUALITY CONTROL SYSTEM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a quality control system to monitor income determinations made by eligible entities under this section and to produce appropriate and comprehensive measures of error rates.

''(2) PERIODIC AUDITS.—The Inspector General of the Department of Health and Human Services shall conduct periodic audits to ensure that the system established under paragraph (1) is functioning appropriately.

''APPROPRIATIONS

''SEC. 1860J. There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Federal Supplementary Medical Insurance Trust Fund established under section 1841, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part exceed the enrollment fees collected under section 1860E.

''MEDICARE COMPETITION AND PRESCRIPTION DRUG ADVISORY BOARD

''SEC. 1860K. (a) ESTABLISHMENT OF BOARD.—There is established a Medicare Prescription Drug Advisory Board (in this section referred to as the 'Board').

''(b) ADVICE ON POLICIES; REPORTS.—

''(1) ADVICE ON POLICIES.—The Board shall advise the Secretary on policies relating to the Voluntary Medicare Prescription Drug Discount and Security Program under this part.

''(2) REPORTS.—

''(A) IN GENERAL.—With respect to matters of the administration of the program under this part, the Board shall submit to Congress and to the Secretary such reports as the Board determines appropriate. Each such report may contain such recommendations as the Board determines appropriate for legislative or administrative changes to improve the administration of the program under this part. Each such report shall be published in the Federal Register.

''(B) MAINTAINING INDEPENDENCE OF BOARD.—The Board shall directly submit to Congress reports required under subparagraph (A). No officer or agency of the United States may require the Board to submit to any officer or agency of the United States for approval, comments, or review, prior to the submission to Congress of such reports.

''(c) STRUCTURE AND MEMBERSHIP OF THE BOARD.—

''(1) MEMBERSHIP.—The Board shall be composed of 7 members who shall be appointed as follows:

''(A) PRESIDENTIAL APPOINTMENTS.—

''(i) IN GENERAL.—Three members shall be appointed by the President, by and with the advice and consent of the Senate.

''(ii) LIMITATION.—Not more than 2 such members may be from the same political party.

''(B) SENATORIAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Committee on Finance of the Senate.

''(C) CONGRESSIONAL APPOINTMENTS.—Two members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.

''(2) QUALIFICATIONS.—The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

''(3) COMPOSITION.—Of the members appointed under paragraph (1)—

''(A) at least 1 shall represent the pharmaceutical industry;

''(B) at least 1 shall represent physicians;

''(C) at least 1 shall represent medicare beneficiaries;

''(D) at least 1 shall represent practicing pharmacists; and

''(E) at least 1 shall represent eligible entities.

''(d) TERMS OF APPOINTMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), each member of the Board shall serve for a term of 6 years.

''(2) CONTINUANCE IN OFFICE AND STAGGERED TERMS.—

''(A) CONTINUANCE IN OFFICE.—A member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

''(B) STAGGERED TERMS.—The terms of service of the members initially appointed under this section shall begin on January 1, 2006, and expire as follows:

''(i) PRESIDENTIAL APPOINTMENTS.—The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

''(I) 2 years;

''(II) 4 years; and

''(III) 6 years.

''(ii) SENATORIAL APPOINTMENTS.—The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

''(I) 3 years; and

''(II) 6 years.

''(iii) CONGRESSIONAL APPOINTMENTS.—The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

''(I) 4 years; and

''(II) 5 years.

''(C) REAPPOINTMENTS.—Any person appointed as a member of the Board may not serve for more than 8 years.

''(D) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

''(e) CHAIRPERSON.—A member of the Board shall be designated by the President to serve as Chairperson for a term of 4 years or, if the remainder of such member's term is less than 4 years, for such remainder.

''(f) EXPENSES AND PER DIEM.—Members of the Board shall serve without compensation, except that, while serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

''(g) MEETINGS.—

''(1) IN GENERAL.—The Board shall meet at the call of the Chairperson (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as determined by the Chairperson in consultation with the other members of the Board.

''(2) QUORUM.—Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

''(h) FEDERAL ADVISORY COMMITTEE ACT.—The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

''(i) PERSONNEL.—

''(1) STAFF DIRECTOR.—The Board shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code.

''(2) STAFF.—

''(A) IN GENERAL.—The Board may employ, without regard to chapter 31 of title 5, United States Code, such officers and employees as are necessary to administer the activities to be carried out by the Board.

''(B) FLEXIBILITY WITH RESPECT TO CIVIL SERVICE LAWS.—

''(i) IN GENERAL.—The staff of the Board shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and, subject to clause (ii), shall be paid without regard to the provisions of chapters 51 and 53 of such title (relating to classification and schedule pay rates).

''(ii) MAXIMUM RATE.—In no case may the rate of compensation determined under clause (i) exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Federal Supplemental Medical Insurance Trust Fund established under section 1841, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.''.

(b) CONFORMING REFERENCES TO PREVIOUS PART D.—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this section, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

(2) IMPLEMENTATION.—Notwithstanding any provision of part D of title XVIII of the Social Security Act (as added by subsection (a)), the Secretary of Health and Human Services shall implement the Voluntary Medicare Prescription Drug Discount and Security Program established under such part in a manner such that—

(A) benefits under such part for eligible beneficiaries (as defined in section 1860 of such Act, as added by such subsection) with annual incomes below 200 percent of the poverty line (as defined in such section) are available to such beneficiaries not later than the date that is 6 months after the date of enactment of this Act; and

(B) benefits under such part for other eligible beneficiaries are available to such beneficiaries not later than the date that is 1 year after the date of enactment of this Act.

SEC. 102. ADMINISTRATION OF VOLUNTARY MEDICARE PRESCRIPTION DRUG DISCOUNT AND SECURITY PROGRAM.

(a) ESTABLISHMENT OF CENTER FOR MEDICARE PRESCRIPTION DRUGS.—There is established, within the Centers for Medicare & Medicaid Services of the Department of Health and Human Services, a Center for Medicare Prescription Drugs. Such Center shall be separate from the Center for Beneficiary Choices, the Center for Medicare Management, and the Center for Medicaid and State Operations.

(b) DUTIES.—It shall be the duty of the Center for Medicare Prescription Drugs to administer the Voluntary Medicare Prescription Drug Discount and Security Program established under part D of title XVIII of the Social Security Act (as added by section 101).

(c) DIRECTOR.—

(1) APPOINTMENT.—There shall be in the Center for Medicare Prescription Drugs a Director of Medicare Prescription Drugs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Director shall be responsible for the exercise of all powers and the discharge of all duties of the Center for Medicare Prescription Drugs and shall have authority and control over all personnel and activities thereof.

(d) PERSONNEL.—The Director of the Center for Medicare Prescription Drugs may appoint and terminate such personnel as may be necessary to enable the Center for Medicare Prescription Drugs to perform its duties.

SEC. 103. EXCLUSION OF PART D COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.

Section 1839(g) of the Social Security Act (42 U.S.C. 1395r(g)) is amended—

(1) by striking ''attributable to the application of section'' and inserting ''attributable to—

''(1) the application of section'';

(2) by striking the period and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(2) the Voluntary Medicare Prescription Drug Discount and Security Program under part D.''.

SEC. 104. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) MODERNIZATION OF MEDICARE SUPPLEMENTAL POLICIES.—

''(1) PROMULGATION OF MODEL REGULATION.—

''(A) NAIC MODEL REGULATION.—If, within 9 months after the date of enactment of the Prescription Drug and Medicare Improvement Act of 2003, the National Association of Insurance Commissioners (in this subsection referred to as the 'NAIC') changes the 1991 NAIC Model Regulation (described in subsection (p)) to revise the benefit package classified as 'J' under the standards established by subsection (p)(2) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(11)) so that—

''(i) the coverage for prescription drugs available under such benefit package is replaced with coverage for prescription drugs that complements but does not duplicate the benefits for prescription drugs that beneficiaries are otherwise entitled to under this title;

''(ii) a uniform format is used in the policy with respect to such revised benefits; and

''(iii) such revised standards meet any additional requirements imposed by the Prescription Drug and Medicare Improvement Act of 2003;

subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2006, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '2006 NAIC Model Regulation').

''(B) REGULATION BY THE SECRETARY.—If the NAIC does not make the changes in the 1991 NAIC Model Regulation within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, a regulation and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policy holders on and after January 1, 2006, as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the 1991 NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '2006 Federal Regulation').

''(C) CONSULTATION WITH WORKING GROUP.—In promulgating standards under this paragraph, the NAIC or Secretary shall consult with a working group similar to the working group described in subsection (p)(1)(D).

''(D) MODIFICATION OF STANDARDS IF MEDICARE BENEFITS CHANGE.—If benefits under part D of this title are changed and the Secretary determines, in consultation with the NAIC, that changes in the 2006 NAIC Model Regulation or 2006 Federal Regulation are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

''(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'I' under the standards established by subsection (p)(2) (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

''(3) APPLICATION OF PROVISIONS AND CONFORMING REFERENCES.—

''(A) APPLICATION OF PROVISIONS.—The provisions of paragraphs (4) through (10) of subsection (p) shall apply under this section, except that—

''(i) any reference to the model regulation applicable under that subsection shall be deemed to be a reference to the applicable 2006 NAIC Model Regulation or 2006 Federal Regulation; and

''(ii) any reference to a date under such paragraphs of subsection (p) shall be deemed to be a reference to the appropriate date under this subsection.

''(B) OTHER REFERENCES.—Any reference to a provision of subsection (p) or a date applicable under such subsection shall also be considered to be a reference to the appropriate provision or date under this subsection.''.

SA 1027. Ms. SNOWE 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, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING IMPLEMENTATION OF THE PRESCRIPTION DRUG AND MEDICARE IMPROVEMENT ACT OF 2003.

(a) IN GENERAL.—It is the sense of the Senate that the Committee on Finance of the Senate should hold not less than 4 hearings to monitor implementation of the Prescription Drug and Medicare Improvement Act of 2003 (hereinafter in this section referred to as the ''Act'') during which the Secretary or his designee should testify before the Committee.

(b) INITIAL HEARING.—It is the sense of the Senate that the first hearing described in subsection (a) should be held not later than 60 days after the date of the enactment the Act. At the hearing, the Secretary or his designee should submit written testimony and testify before the Committee on Finance of the Senate on the following issues:

(1) The progress toward implementation of the prescription drug discount card under section 111 of the Act.

(2) Development of the blueprint that will direct the implementation of the provisions of the Act, including the implementation of title I (Medicare Prescription Drug Benefit), title II (MedicareAdvantage), and title III (Center for Medicare Choices) of the Act.

(3) Any problems that will impede the timely implementation of the Act.

(4) The overall progress toward implementation of the Act.

(c) SUBSEQUENT HEARINGS.—It is the sense of the Senate that the additional hearings described in subsection (a) should be held in each of May 2004, October 2004, and May 2005. At each hearing, the Secretary or his designee should submit written testimony and testify before the Committee on Finance of the Senate on the following issues:

(1) Progress on implementation of title I (Medicare Prescription Drug Benefit), title II (MedicareAdvantage), and title III (Center for Medicare Choices) of the Act.

(2) Any problems that will impede timely implementation of the Act.

SA 1028. Mr. CRAIG 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 A of title II, add the following:

SEC. ___. ESTABLISHMENT OF MEDICAREADVANTAGE CONSUMER-DRIVEN HEALTH PLAN OPTION.

(a) PROGRAM SPECIFICATIONS.—Part C of title XVIII (42 U.S.C. 1395w–21 et seq.), amended by section 205, is amended by inserting after section 1858A the following new section:

''CONSUMER-DRIVEN HEALTH PLAN OPTION

''SEC. 1858B. (a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Beginning on January 1, 2006, there is established a consumer-driven health plan program under which consumer-driven health plans offered by consumer-driven health plan sponsors are offered to MedicareAdvantage eligible individuals in preferred provider regions.

''(2) DEFINITIONS.—

''(A) CONSUMER-DRIVEN HEALTH PLAN SPONSOR.—The term 'consumer-driven health plan sponsor' means an entity with a contract under section 1857 that meets the requirements of this section applicable with respect to consumer-driven health plan sponsors.

''(B) CONSUMER-DRIVEN HEALTH PLAN.—The term 'consumer-driven health plan' means a MedicareAdvantage plan that—

''(i) provides 100 percent coverage for preventive benefits (as defined by the Secretary);

''(ii) includes a personal care account from which enrollees must pay out-of-pocket costs until the deductible is met; and

''(iii) has a high deductible (as determined by the Secretary).

''(C) PREFERRED PROVIDER REGION.—The term 'preferred provider region' has the meaning given that term under section 1858(a)(2)(C).

''(b) ELIGIBILITY, ELECTION, AND ENROLLMENT; BENEFITS AND BENEFICIARY PROTECTIONS.—

''(1) IN GENERAL.—Except as provided in the succeeding provisions of this subsection, the provisions of sections 1851 and 1852 that apply with respect to coordinated care plans shall apply to consumer-driven health plans offered by a consumer-driven health plan sponsor.

''(2) SERVICE AREA.—The service area of a consumer-driven health plan shall be a preferred provider region.

''(3) AVAILABILITY.—Each consumer-driven health plan must be offered to each MedicareAdvantage eligible individual who resides in the service area of the plan.

''(4) AUTHORITY TO PROHIBIT RISK SELECTION.—The provisions of section 1852(a)(6) shall apply to preferred provider organization plans.

''(5) ASSURING ACCESS TO SERVICES IN CONSUMER-DRIVEN HEALTH PLANS.—The requirements of section 1858(a)(5) shall apply to consumer-driven health plans.

''(6) PERSONAL CARE ACCOUNTS.—

''(A) ESTABLISHMENT.—Each consumer-driven health plan shall establish a personal care account on behalf of each enrollee from which such enrollee shall be required to pay out-of-pockets costs until the deductible described in subsection (a)(2)(B)(iii) is met.

''(B) ROLLOVER.—Subject to subparagraph (C), any amounts remaining in a personal care account at the end of a year shall be credited to such an account for the subsequent year.

''(C) CHANGES OF ELECTION.—If, after electing a consumer-driven health plan, a beneficiary elects a plan under this part that is not a consumer-driven health plan during a subsequent year or elects to receive benefits under the original medicare fee-for-service program option (whether or not as a result of circumstances described in section 1851(e)(4)), any amounts remaining in the account as of the date of such election shall be credited to the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 in such proportion as the Secretary determines is appropriate.

''(c) PAYMENTS TO CONSUMER-DRIVEN HEALTH PLAN SPONSORS.—

''(1) PAYMENTS TO ORGANIZATIONS.—

''(A) MONTHLY PAYMENTS.—

''(i) IN GENERAL.—Under a contract under section 1857 and subject to paragraph (5), subsections (e) and (i), and section 1859(e)(4), the Secretary shall make, to each consumer-driven health plan sponsor, with respect to coverage of an individual for a month under this part in a preferred provider region, separate monthly payments with respect to—

''(I) benefits under the original medicare fee-for-service program under parts A and B in accordance with paragraph (4); and

''(II) benefits under the voluntary prescription drug program under part D in accordance with section 1858A and the other provisions of this part.

''(ii) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish separate rates of payment applicable with respect to classes of individuals determined to have end-stage renal disease and enrolled in a consumer-driven health plan under this clause that are similar to the separate rates of payment described in section 1853(a)(1)(B).

''(B) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—The Secretary may retroactively adjust the amount of payment under this paragraph in a manner that is similar to the manner in which payment amounts may be retroactively adjusted under section 1853(a)(2).

''(C) COMPREHENSIVE RISK ADJUSTMENT METHODOLOGY.—The Secretary shall apply the comprehensive risk adjustment methodology described in section 1853(a)(3)(B) to 100 percent of the amount of payments to plans under paragraph (4)(D)(ii).

''(D) ADJUSTMENT FOR SPENDING VARIATIONS WITHIN A REGION.—The Secretary shall establish a methodology for adjusting the amount of payments to plans under paragraph (4)(D)(ii) that achieves the same objective as the adjustment described in paragraph 1853(a)(2)(C).

''(2) APPLICATION OF PREFERRED PROVIDER BENCHMARKS.—The benchmark amounts calculated under section 1858(c)(2) shall apply with respect to consumer-driven health plans.

''(3) APPLICATION OF PREFERRED PROVIDER PAYMENT FACTORS.—The provisions of section 1858(c)(3) shall apply with respect to consumer driven health plans.

''(4) SECRETARY'S DETERMINATION OF PAYMENT AMOUNT FOR BENEFITS UNDER THE ORIGINAL MEDICARE FEE-FOR-SERVICE PROGRAM.—The Secretary shall determine the payment amount for plans as follows:

''(A) REVIEW OF PLAN BIDS.—The Secretary shall review each plan bid submitted under subsection (d)(1) for the coverage of benefits under the original medicare fee-for-service program option to ensure that such bids are consistent with the requirements under this part and are based on the assumptions described in section 1854(a)(2)(A)(iii).

''(B) DETERMINATION OF PREFERRED PROVIDER REGIONAL BENCHMARK AMOUNTS.—The preferred provider regional benchmark calculated under section 1858(c)(4)(B) shall apply with respect to consumer-drive health plans amount for that plan for the benefits under the original medicare fee-for-service program option for each plan equal to the regional benchmark adjusted by using the assumptions described in section 1854(a)(2)(A)(iii).

''(C) COMPARISON TO BENCHMARK.—The Secretary shall determine the difference between each plan bid (as adjusted under subparagraph (A)) and the preferred provider regional benchmark amount (as determined under subparagraph (B)) for purposes of determining—

''(i) the payment amount under subparagraph (D); and

''(ii) the additional benefits required and MedicareAdvantage monthly basic beneficiary premiums.

''(D) DETERMINATION OF PAYMENT AMOUNT.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall determine the payment amount to a consumer-driven health plan sponsor for a consumer-driven health plan as follows:

''(I) BIDS THAT EQUAL OR EXCEED THE BENCHMARK.—In the case of a plan bid that equals or exceeds the preferred provider regional benchmark amount, the amount of each monthly payment to the organization with respect to each individual enrolled in a plan shall be the preferred provider regional benchmark amount.

''(II) BIDS BELOW THE BENCHMARK.—In the case of a plan bid that is less than the preferred provider regional benchmark amount, the amount of each monthly payment to the organization with respect to each individual enrolled in a plan shall be the preferred provider regional benchmark amount reduced by the amount of any premium reduction elected by the plan under section 1854(d)(1)(A)(i).

''(ii) APPLICATION OF ADJUSTMENT METHODOLOGIES.—The Secretary shall adjust the amounts determined under subparagraph (A) using the factors described in section 1858(c)(3)(A)(ii).

''(E) FACTORS USED IN ADJUSTING BIDS AND BENCHMARKS FOR CONSUMER-DRIVEN HEALTH PLAN SPONSORS AND IN DETERMINING ENROLLEE PREMIUMS.—Subject to subparagraph (F), in addition to the factors used to adjust payments to plans described in section 1853(d)(6), the Secretary shall use the adjustment for geographic variation within the region established under paragraph (1)(D).

''(F) ADJUSTMENT FOR NATIONAL COVERAGE DETERMINATIONS AND LEGISLATIVE CHANGES IN BENEFITS.—The Secretary shall provide for adjustments for national coverage determinations and legislative changes in benefits applicable with respect to consumer-driven health plan sponsors in the same manner as the Secretary provides for adjustments under section 1853(d)(7).

''(5) PAYMENTS FROM TRUST FUND.—The payment to a consumer-driven health plan sponsor under this section shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in a manner similar to the manner described in section 1853(g).

''(6) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—Rules similar to the rules applicable under section 1853(h) shall apply with respect consumer-driven health plan sponsors.

''(7) SPECIAL RULE FOR HOSPICE CARE.—Rules similar to the rules applicable under section 1853(i) shall apply with respect to consumer-driven health plan sponsors.

''(d) SUBMISSION OF BIDS BY CONSUMER-DRIVEN HEALTH PLANS; PREMIUMS.—

''(1) SUBMISSION OF BIDS BY CONSUMER-DRIVEN HEALTH PLAN SPONSORS.—

''(A) IN GENERAL.—For the requirements on submissions by consumer-driven health plans, see section 1854(a)(1).

''(B) UNIFORM PREMIUMS.—Each bid amount submitted under subparagraph (A) for a consumer-driven health plan in a preferred provider region may not vary among MedicareAdvantage eligible individuals residing in such preferred provider region.

''(C) APPLICATION OF FEHBP STANDARD; PROHIBITION ON PRICE GOUGING.—Each bid amount submitted under subparagraph (A) for a consumer-driven health plan must reasonably and equitably reflect the cost of benefits provided under that plan.

''(D) REVIEW.—The Secretary shall review the adjusted community rates (as defined in section 1854(g)(3)), the amounts of the MedicareAdvantage monthly basic premium and the MedicareAdvantage monthly beneficiary premium for enhanced medical benefits filed under this paragraph and shall approve or disapprove such rates and amounts so submitted. The Secretary shall review the actuarial assumptions and data used by the consumer-driven health plan sponsor with respect to such rates and amounts so submitted to determine the appropriateness of such assumptions and data.

''(E) NO LIMIT ON NUMBER OF PLANS IN A REGION.—The Secretary may not limit the number of consumer-driven health plans offered in a preferred provider region.

''(2) MONTHLY PREMIUMS CHARGED.—The amount of the monthly premium charged to an individual enrolled in a consumer-driven health plan offered by a consumer-driven health plan sponsor shall be equal to the sum of the following:

''(A) The MedicareAdvantage monthly basic beneficiary premium, as defined in section 1854(b)(2)(A) (if any).

''(B) The MedicareAdvantage monthly beneficiary premium for enhanced medical benefits, as defined in section 1854(b)(2)(C) (if any).

''(C) The MedicareAdvantage monthly obligation for qualified prescription drug coverage, as defined in section 1854(b)(2)(B) (if any).

''(3) DETERMINATION OF PREMIUM REDUCTIONS, REDUCED COST-SHARING, ADDITIONAL BENEFITS, AND BENEFICIARY PREMIUMS.—The rules for determining premium reductions, reduced cost-sharing, additional benefits, and beneficiary premiums under section 1854(d) shall apply with respect to consumer-driven health plan sponsors.

''(4) PROHIBITION OF SEGMENTING PREFERRED PROVIDER REGIONS.—The Secretary may not permit a consumer-driven health plan sponsor to elect to apply the provisions of this section uniformly to separate segments of a preferred provider region (rather than uniformly to an entire preferred provider region).

''(e) PORTION OF TOTAL PAYMENTS TO AN ORGANIZATION SUBJECT TO RISK FOR 2 YEARS.—

''(1) NOTIFICATION OF SPENDING UNDER THE PLAN.—

''(A) IN GENERAL.—For 2007 and 2008, the consumer-driven health plan sponsor offering a consumer-driven health plan shall notify the Secretary of the total amount of costs that the organization incurred in providing benefits covered under parts A and B of the original medicare fee-for-service program for all enrollees under the plan in the previous year.

''(B) CERTAIN EXPENSES NOT INCLUDED.—The total amount of costs specified in subparagraph (A) may not include—

''(i) subject to subparagraph (C), administrative expenses incurred in providing the benefits described in such subparagraph; or

''(ii) amounts expended on providing enhanced medical benefits under section 1852(a)(3)(D).

''(C) ESTABLISHMENT OF ALLOWABLE ADMINISTRATIVE EXPENSES.—For purposes of applying subparagraph (B)(i), the administrative expenses incurred in providing benefits described in subparagraph (A) under a consumer-driven health plan may not exceed an amount determined appropriate by the Administrator.

''(2) ADJUSTMENT OF PAYMENT.—

''(A) NO ADJUSTMENT IF COSTS WITHIN RISK CORRIDOR.—If the total amount of costs specified in paragraph (1)(A) for the plan for the year are not more than the first threshold upper limit of the risk corridor (specified in paragraph (3)(A)(iii)) and are not less than the first threshold lower limit of the risk corridor (specified in paragraph (3)(A)(i)) for the plan for the year, then no additional payments shall be made by the Secretary and no reduced payments shall be made to the consumer-driven health plan sponsor offering the plan.

''(B) INCREASE IN PAYMENT IF COSTS ABOVE UPPER LIMIT OF RISK CORRIDOR.—

''(i) IN GENERAL.—If the total amount of costs specified in paragraph (1)(A) for the plan for the year are more than the first threshold upper limit of the risk corridor for the plan for the year, then the Secretary shall increase the total of the monthly payments made to the consumer-driven health plan sponsor offering the plan for the year under subsection (c)(1)(A) by an amount equal to the sum of—

''(I) 50 percent of the amount of such total costs which are more than such first threshold upper limit of the risk corridor and not more than the second threshold upper limit of the risk corridor for the plan for the year (as specified under paragraph (3)(A)(iv)); and

''(II) 10 percent of the amount of such total costs which are more than such second threshold upper limit of the risk corridor.

''(C) REDUCTION IN PAYMENT IF COSTS BELOW LOWER LIMIT OF RISK CORRIDOR.—If the total amount of costs specified in paragraph (1)(A) for the plan for the year are less than the first threshold lower limit of the risk corridor for the plan for the year, then the Secretary shall reduce the total of the monthly payments made to the consumer-driven health plan sponsor offering the plan for the year under subsection (c)(1)(A) by an amount (or otherwise recover from the plan an amount) equal to—

''(i) 50 percent of the amount of such total costs which are less than such first threshold lower limit of the risk corridor and not less than the second threshold lower limit of the risk corridor for the plan for the year (as specified under paragraph (3)(A)(ii)); and

''(ii) 10 percent of the amount of such total costs which are less than such second threshold lower limit of the risk corridor.

''(3) ESTABLISHMENT OF RISK CORRIDORS.—

''(A) IN GENERAL.—For 2006 and 2007, the Secretary shall establish a risk corridor for each consumer-driven health plan. The risk corridor for a plan for a year shall be equal to a range as follows:

''(i) FIRST THRESHOLD LOWER LIMIT.—The first threshold lower limit of such corridor shall be equal to—

''(I) the target amount described in subparagraph (B) for the plan; minus

''(II) an amount equal to 5 percent of such target amount.

''(ii) SECOND THRESHOLD LOWER LIMIT.—The second threshold lower limit of such corridor shall be equal to—

''(I) the target amount described in subparagraph (B) for the plan; minus

''(II) an amount equal to 10 percent of such target amount.

''(iii) FIRST THRESHOLD UPPER LIMIT.—The first threshold upper limit of such corridor shall be equal to the sum of—

''(I) such target amount; and

''(II) the amount described in clause (i)(II).

''(iv) SECOND THRESHOLD UPPER LIMIT.—The second threshold upper limit of such corridor shall be equal to the sum of—

''(I) such target amount; and

''(II) the amount described in clause (ii)(II).

''(B) TARGET AMOUNT DESCRIBED.—The target amount described in this paragraph is, with respect to a consumer-driven health plan offered by a consumer-driven health plan sponsor in a year, an amount equal to the sum of—

''(i) the total monthly payments made to the organization for enrollees in the plan for the year under subsection (c)(1)(A); and

''(ii) the total MedicareAdvantage basic beneficiary premiums collected for such enrollees for the year under subsection (d)(2)(A).

''(4) PLANS AT RISK FOR ENTIRE AMOUNT OF ENHANCED MEDICAL BENEFITS.—A consumer-driven health plan sponsor that offers a consumer-driven health plan that provides enhanced medial benefits under section 1852(a)(3)(D) shall be at full financial risk for the provision of such benefits.

''(5) NO EFFECT ON ELIGIBLE BENEFICIARIES.—No change in payments made by reason of this subsection shall affect the amount of the MedicareAdvantage basic beneficiary premium that a beneficiary is otherwise required to pay under the plan for the year under subsection (d)(2)(A).

''(6) DISCLOSURE OF INFORMATION.—The provisions of section 1860D–16(b)(7), including subparagraph (B) of such section, shall apply to a consumer-driven health plan sponsor and a consumer-driven health plan in the same manner as such provisions apply to an eligible entity and a Medicare Prescription Drug plan under part D.

''(f) ORGANIZATIONAL AND FINANCIAL REQUIREMENTS FOR CONSUMER-DRIVEN HEALTH PLAN SPONSORS.—A consumer-driven health plan sponsor shall be organized and licensed under State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State within the preferred provider region in which it offers a consumer-driven health plan.

''(g) INAPPLICABILITY OF PROVIDER-SPONSORED ORGANIZATION SOLVENCY STANDARDS.—The requirements of section 1856 shall not apply with respect to consumer-driven health plan sponsors.

''(h) CONTRACTS WITH CONSUMER-DRIVEN HEALTH PLAN SPONSORS.—The provisions of section 1857 shall apply to a consumer-driven health plan offered by a consumer-driven health plan sponsor under this section.

''(i) BUDGET NEUTRALITY.—Notwithstanding any other provision of this section, in conducting the program under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under this title do not exceed the amount the Secretary would have paid if this section had not been enacted.''.

(b) CONSUMER-DRIVEN HEALTH PLAN TERMINOLOGY DEFINED.—Section 1859(a) (42 U.S.C. 1395w–29(a)), as amended by section 211(b), is amended by adding at the end the following new paragraph:

''(4) CONSUMER-DRIVEN HEALTH PLAN SPONSOR; CONSUMER-DRIVEN HEALTH PLAN.—The terms 'consumer-driven health plan sponsor' and 'consumer-driven health plan' have the meaning given such terms in section 1858B(a)(2).''.

SA 1029. Mr. SANTORUM 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 VI, insert the following:

SEC. ___. MEDICARE COVERAGE OF CRITICAL ACCESS HEALTH CENTER SERVICES.

(a) IN GENERAL.—

(1) COVERAGE.—Section 1861(s)(2)(E) (42 U.S.C. 1395x(s)(2)(E)) is amended—

(A) by striking ''services and'' and inserting ''services,''; and

(B) by striking ''center services'' and inserting ''center services, and critical access health center services''.

(2) DEFINITIONS.—Section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(A) in the heading—

(i) by striking ''Services and'' and inserting ''Services,''; and

(ii) by striking ''Center Services'' and inserting ''Center Services, and Critical Access Health Center Services'';

(B) in paragraph (1)(B), by striking ''paragraph (5)'' and inserting ''paragraph (7)'';

(C) by redesignating paragraphs (5), (6), and (7) as paragraphs (7), (8), and (9), respectively; and

(D) by inserting after paragraph (4) the following:

''(5) The term 'critical access health center services' means—

''(A) services of the type described in subparagraphs (A) through (C) of paragraph (1); and

''(B) preventive primary health services of the type that a health center is required to provide under section 330 of the Public Health Service Act,

when furnished to an individual who is an outpatient of a critical access health center and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a critical access health center or a physician at the center, respectively.

''(6) The term 'critical access health center' means an entity that—

''(A) is sponsored by a private, nonprofit entity with a religious affiliation; and

''(B) based on the recommendation of the Centers for Medicare and Medicaid Services, is determined by the Secretary to meet the requirements for receiving a grant under section 330 of the Public Health Service Act (other than the requirement of subsection (n)(3)(H)(i) of such section).''.

(3) PAYMENTS.—

(A) SCOPE OF BENEFITS.—Section 1832(a) (42 U.S.C.1395k(a)) is amended—

(i) in paragraph (1), by striking ''subparagraphs (B) and (D)'' and inserting ''subparagraphs (B), (D), and (K)''; and

(ii) in paragraph (2)—

(I) by striking ''and'' at the end of subparagraph (I);

(II) by striking the period at the end of subparagraph (J) and inserting ''; and''; and

(III) by adding at the end the following:

''(K) critical access health center services.''.

(B) PAYMENT OF BENEFITS.—Section 1833(a) (42 U.S.C.1395*l*(a)) is amended—

(i) in the matter preceding subparagraph (A) of paragraph (2), by striking ''and (I)'' and inserting ''(I), and (K)''; and

(ii) in paragraph (3), by inserting ''or section 1832(a)(2)(K)'' after ''section 1832(a)(2)(D)''.

(C) PART B DEDUCTIBLE NOT APPLICABLE.—The first sentence of section 1833(b) (42 U.S.C. 1395*l*(b)) is amended by inserting ''or critical access health center services'' after ''Federally qualified health center services''.

(D) EXCEPTION TO EXCLUSIONS FROM COVERAGE.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (2), by inserting ''or critical access health center services (as defined in section 1861(aa)(5))'' after ''Federally qualified health center services'';

(ii) in paragraph (3), by inserting ''in the case of critical access health center services (as defined in section 1861(aa)(5)),'' after ''section 1880(e),''; and

(iii) in the second sentence, by inserting ''or critical access health center services described in section 1861(aa)(5)(B)'' after ''section 1861 (aa)(3)(B)''.

(E) EXCEPTION TO ANTI-KICKBACK LAW FOR WAIVER OF COINSURANCE.—Section 1128B(b)(3)(D) (42 U.S.C. 13206-7b(b)(3)(D)) is amended—

(i) by inserting ''(i)'' before ''a waiver'';

(ii) by inserting ''and'' after ''Act;''; and

(iii) by adding at the end the following:

''(ii) a waiver of—

''(I) any coinsurance under part B of title XVIII by a critical access health center with respect to an individual who qualifies for subsidized services under a provision of section 330 of the Public Health Service Act (as made applicable to such centers by section 1861(aa)(6)); and

''(II) the deductible and any coinsurance under such part by any provider of services, physician, or supplier to which such an individual is referred by a critical access health center for the provision of services that are not critical access health center services;''.

(F) CONFORMING AMENDMENTS.—

(i) Section 1842(b)(18)(C)(1) (42 U.S.C. 1395u(b)(18)(C)(1)) is amended by striking ''section 1861(aa)(5)'' and inserting ''section 1861(aa)(7)''.

(ii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended in subparagraph (H)(i), by striking ''subsection (aa)(5)'' and inserting ''subsection (aa)(7)''.

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended in subparagraph (K)—

(I) by striking ''subsection (aa)(5)'' each place it appears and inserting ''subsection (aa)(7)''; and

(II) by striking ''subsection (aa)(6)'' and inserting ''subsection (aa)(8)''.

(b) EFFECTIVE DATE.—The amendments made this section shall apply to items and services furnished on or after October 1, 2004.

SEC. ___ . DEMONSTRATION TO IMPROVE ACCESS AND CONTINUITY OF CARE FOR LOW-INCOME BENEFICIARIES.

(a) IN GENERAL.—The Secretary shall—

(1) conduct a demonstration project to test the use of alternative payment methodologies to health care providers to improve access to ambulatory health care services and continuity of care for vulnerable populations such as low-income beneficiaries under title XVIII; and

(2) waive any provisions of the Social Security Act that are necessary to implement such demonstration.

(b) DURATION.—The demonstration project conducted pursuant to subsection (a) shall be for a term of at least 3 years and shall begin operation not later than 1 year after the date of the enactment of this Act.

(c) REPORTS.—

(1) INTERIM AND FINAL REPORTS REQUIRED.—The Secretary shall submit interim and final reports on the demonstration project conducted pursuant to subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Commerce of the House of Representatives. Such reports shall describe—

(A) the alternative payment methodologies in use under the demonstration;

(B) the provisions of law waived by the Secretary in order to conduct the demonstration; and

(C) the extent to which the demonstration has achieved the objectives described in subsection (a).

(2) TIMING OF REPORTS.—The Secretary shall submit the interim report required by paragraph (1) not later than 2 years after the commencement of the demonstration and the final report not later than 6 months after the termination the demonstration.

SA 1030. Mr. ENZI 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 356, strike lines 8 through 11, and insert the following:

''(C) CONSTRUCTION.—Subparagraph (B) shall not be construed as restricting—

''(i) the persons from whom enrollees under such plan may obtain covered benefits; or

''(ii) the categories of licensed health professionals or providers from whom enrollees under such a plan may obtain covered benefits if the covered services are provided to enrollees in a State where 25 percent or more of the population resides in health professional shortage areas designated pursuant to section 332 of the Public Health Service Act.''

SA 1031. Mr. CARPER 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. ___. INCREASING TYPES OF ORIGINATING TELEHEALTH SITES AND FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.

(a) INCREASING TYPES OF ORIGINATING SITES.—Section 1834(m)(4)(C)(ii) (42 U.S.C. 1395m(m)(4)(C)(ii)) is amended by adding at the end the following new subclauses:

''(VI) A skilled nursing facility (as defined in section 1819(a)).

''(VII) An assisted-living facility (as defined by the Secretary).

''(VIII) A board-and-care home (as defined by the Secretary).

''(IX) A county of community health clinic (as defined by the Secretary).

''(X) A community mental health center (as described in section 1861(ff)(2)(B)).

''(XI) A long-term care facility (as defined by the Secretary).

''(XII) A facility operated by the Indian Health Service or by an Indian tribe, tribal organization, or an urban Indian organization (as such terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603)) directly, or under contract or other arrangement.''.

(b) FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.—

(1) IN GENERAL.—For purposes of expediting the provision of telehealth services for which payment is made under the medicare program under section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), across State lines, the Secretary shall, in consultation with representatives of States, physicians, health care practitioners, and patient advocates, encourage and facilitate the adoption of State provisions allowing for multistate practitioner licensure across State lines.

(2) DEFINITIONS.—In this subsection:

(A) TELEHEALTH SERVICE.—The term ''telehealth service'' has the meaning given that term in subparagraph (F)(i) of section 1834(m)(4) of the Social Security Act (42 U.S.C. 1395m(m)(4)).

(B) PHYSICIAN, PRACTITIONER.—The terms ''physician'' and ''practitioner'' have the meaning given those terms in subparagraphs (D) and (E), respectively, of such section.

(C) MEDICARE PROGRAM.—The term ''medicare program'' means the program of health insurance administered by the Secretary under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

SA 1032. Ms. MIKULSKI 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. ___. PERMITTING DIRECT PAYMENT UNDER THE MEDICARE PROGRAM FOR CLINICAL SOCIAL WORKER SERVICES PROVIDED TO RESIDENTS OF SKILLED NURSING FACILITIES.

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''clinical social worker services,'' after ''qualified psychologist services,''.

(b) CONFORMING AMENDMENT.—Section 1861(hh)(2) (42 U.S.C. 1395x(hh)(2)) is amended by striking ''and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after October 1, 2003.

SA 1033. Ms. MIKULSKI 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. ___. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

The last sentence of section 9215(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1395b–1 note), as previously amended, is amended by striking ''December 31, 2004, but only with respect to'' and all that follows and inserting ''December 31, 2009, but only with respect to individuals who reside in the city in which the project is operated and so long as the total number of individuals participating in the project does not exceed the number of such individuals participating as of January 1, 1996.''.

SA 1034. Ms. MIKULSKI 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 B of title IV, add the following:

SEC. ___. EQUITABLE TREATMENT FOR CHILDREN'S HOSPITALS.

(a) IN GENERAL.—Section 1833(t)(7)(D)(ii) (42 U.S.C. 1395l(t)(7)(D)(ii)) is amended to read as follows:

''(ii) PERMANENT TREATMENT FOR CANCER HOSPITALS AND CHILDREN'S HOSPITALS.—

''(I) CANCER HOSPITALS.—In the case of a hospital described in section 1886(d)(1)(B)(v), for covered OPD services for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the amount of such difference.

''(II) CHILDREN'S HOSPITALS.—In the case of a hospital described in section 1886(d)(1)(B)(iii), for covered OPD services furnished before October 1, 2003, and for which the PPS amount is less than the pre-BBA amount the amount of payment under this subsection shall be increased by the amount of such difference. In the case of such a hospital, for such services furnished on or after October 1, 2003, and for which the PPS amount is less than the greater of the pre-BBA amount or the reasonable operating and capital costs without reductions incurred in furnishing such services, the amount of payment under this subsection shall be increased by the amount of such difference.''.

SA 1035. Ms. MIKULSKI 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 B of title IV, add the following:

SEC. ___. EQUITABLE TREATMENT FOR CHILDREN'S HOSPITALS.

(a) IN GENERAL.—Section 1833(t)(7)(D)(ii) (42 U.S.C. 1395l(t)(7)(D)(ii)) is amended to read as follows:

''(ii) PERMANENT TREATMENT FOR CANCER HOSPITALS AND CHILDREN'S HOSPITALS.—

''(I) IN GENERAL.—Subject to subclause (II), in the case of a hospital described in clause (iii) or (v) of section 1886(d)(1)(B), for covered OPD services for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by the amount of such difference.

''(II) SPECIAL RULE FOR CERTAIN CHILDREN'S HOSPITALS.—In the case of a hospital described in section 1886(d)(1)(B)(iii) that is located in a State with a reimbursement system under section 1814(b)(3), but that is not reimbursed under such system, for covered OPD services furnished on or after October 1, 2003, and for which the PPS amount is less than the greater of the pre-BBA amount or the reasonable operating and capital costs without reductions of the hospital in providing such services, the amount of payment under this subsection shall be increased by the amount of such difference.''.

SA 1036. Mr. REID (for Mrs. BOXER) 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 53, between line 8 and 9, insert the following:

''(6) NO COVERAGE GAP FOR ELIGIBLE BENEFICIARIES WITH CANCER.—

''(A) IN GENERAL.—In the case of an eligible beneficiary with cancer, the following rules shall apply:

''(i) Paragraph (2) shall be applied by substituting 'up to the annual out-of-pocket limit under paragraph (4)' for 'up to the initial coverage limit under paragraph (3)'.

''(ii) The Administrator shall not apply paragraph (3), subsection (d)(1)(C), or paragraph (1)(D), (2)(D), or (3)(A)(iv) of section 1860D–19(a).

''(B) PROCEDURES.—The Administrator shall establish procedures to carry out this paragraph. Such procedures shall provide for the adjustment of payments to eligible entities under section 1860D–16 that are necessary because of the rules under subparagraph (A).''

SA 1037. Mr. REID (for 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 subtitle A of title I, add the following:

SEC. ___. CONFORMING CHANGES REGARDING FEDERALLY QUALIFIED HEALTH CENTERS.

(a) PERMITTING FQHCS TO FILL PRESCRIPTIONS.—Section 1861(aa)(3) (42 U.S.C. 1395x(aa)(3)) is amended—

(1) in subparagraph (A), by striking ''and'' after the comma at the end;

(2) in subparagraph (B), by inserting ''and'' after the comma at the end; and

(3) by adding at the end the following new subparagraph:

''(C) drugs and biologicals for which payment may otherwise be made under this title,''.

(b) ELIMINATION OF PER VISIT LIMIT.—Section 1833(a)(3) (42 U.S.C. 1395l(a)(3)) is amended by inserting '', except that such regulations may not limit the per visit payment amount with regard to drugs and biologicals described in section 1861(aa)(3)(C)'' after ''the Secretary may prescribe in regulations''.

SA 1038. Mr. REID (for Mr. JEFFORDS) 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 section 405 add the following:

(g) EXCLUSION OF CERTAIN BEDS FROM BED COUNT AND REMOVAL OF BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS.—

(1) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—Section 1820(c)(2) (42 U.S.C. 1395i-4(c)(2)) is amended by adding at the end the following:

''(E) EXCLUSION OF CERTAIN BEDS FROM BED COUNT.—In determining the number of beds of a facility for purposes of applying the bed limitations referred to in subparagraph (B)(iii) and subsection (f), the Secretary shall not take into account any bed of a distinct part psychiatric or rehabilitation unit (described in the matter following clause (v) of section 1886(d)(1)(B)) of the facility, except that the total number of beds that are not taken into account pursuant to this subparagraph with respect to a facility shall not exceed 25.''.

(2) REMOVING BARRIERS TO ESTABLISHMENT OF DISTINCT PART UNITS BY CRITICAL ACCESS HOSPITALS.—Section 1886(d)(1)(B) (42 U.S.C. 195ww(d)(1)(B)) is amended by striking ''a distinct part of the hospital (as defined by the Secretary)'' in the matter following cause (v) and inserting ''a distinct part (as defined by the Secretary) of the hospital or of a critical access hospital''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to determinations with respect to distinct part unit status, and with respect to designations, that are made on or after October 1, 2003.

SA 1039. Mr. REID (for Mr. INOUYE) 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:

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.

SA 1040. Mr. SCHUMER (for himself, Mr. CORZINE, Mrs. CLINTON, and 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:

On page 294, line 6, strike ''or (C)'' and insert ''(C), or (D)''.

On page 294, line 21, insert ''(other than in 2004 and 2005)'' after ''multiplied''.

On page 297, strike lines 5 through 9, and insert the following:

''(iv) For 2002 and 2003, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(v) For 2004 and 2005, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(vi) For 2006 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(D) ANNUAL FEE-FOR-SERVICE COSTS IN 2004 AND 2005.—For 2004 and 2005, the adjusted average per capita cost for the year, as determined under section 1876(a)(4) for the Medicare+Choice payment area for items and services covered under parts A and B for individuals entitled to benefits under part A and enrolled under part B and not enrolled in a Medicare+Choice plan under this part for the year, except that such amount shall be adjusted—

''(i) to exclude costs attributable to payment adjustments described in subsection (a)(5)(B)(ii), and

''(ii) to include an amount equal to 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.

On page 298, line 10, strike ''subparagraph (B)'' and insert ''subparagraphs (B) and (E)''.

On page 301, between lines 8 and 9, insert the following:

''(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 2004 and 2005, 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.

On page 302, line 23, insert ''(or, in the case of calculations for payments for months beginning on or after January 1, 2004, and before December 31, 2005, the average number of medicare beneficiaries enrolled in a Medicare+Choice plan that are)'' after ''medicare beneficiaries''.

On page 303, line 9, insert ''other than 2004 and 2005'' after ''for each year''.

On page 349, between lines 4 and 5, insert the following:

(3) PAYMENT RATES BASED ON 100 PERCENT OF FEE-FOR-SERVICE COSTS IN 2004 AND 2005.—

(A) CHANGE IN BUDGET NEUTRALITY.—Section 1853(c) (42 U.S.C. 1395w–23(c)) is amended—

(i) in paragraph (1)(A), in the flush matter following clause (ii), by inserting ''(other than in 2004 and 2005)'' after ''multiplied''; and

(ii) in paragraph (5), by inserting ''other than 2004 and 2005'' after ''for each year''.

(B) INCLUSION OF COSTS OF DOD AND VA MILITARY FACILITY SERVICES TO MEDICARE-ELIGIBLE BENEFICIARIES.—Section 1853(c)(3) (42 U.S.C. 1395w–23(c)(3)) 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 2004 and 2005, 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.''.

(C) 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)) is amended by inserting ''(or, in the case of calculations for payments for months beginning on or after January 1, 2004, and before December 31, 2005, the average number of medicare beneficiaries enrolled in a Medicare+Choice plan that are)'' after ''medicare beneficiaries''.

(D) UPDATE IN MINIMUM PERCENTAGE INCREASE.—Section 1853(c)(1)(C) (42 U.S.C. 1395w–23(c)(1)(C)) is amended by striking clause (iv) and inserting the following new clauses:

''(iv) For 2002 and 2003, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(v) For 2004 and 2005, 103 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.

''(vi) For 2006 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.''.

SA 1041. Ms. MURKOWSKI (for herself and Mr. STEVENS) 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 529, between lines 8 and 9, insert the following:

SEC. 455. FRONTIER EXTENDED STAY CLINIC DEMONSTRATION PROJECT.

(a) AUTHORITY TO CONDUCT DEMONSTRATION PROJECT.—The Secretary shall waive such provisions of the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as are necessary to conduct a demonstration project under which frontier extended stay clinics described in subsection (b) in isolated rural areas of Alaska are treated as providers of items and services under the medicare program.

(b) CLINICS DESCRIBED.—A frontier extended stay clinic is described in this subsection if the clinic—

(1) is located in a community where the closest short-term acute care hospital or critical access hospital is at least 75 miles away from the community or is inaccessible by public road; and

(2) is designed to address the needs of—

(A) seriously or critically ill or injured patients who, due to adverse weather conditions or other reasons, cannot be transferred quickly to acute care referral centers; or

(B) patients who need monitoring and observation for a limited period of time.

(c) DEFINITIONS.—In this section, the terms ''hospital'' and ''critical access hospital'' have the meanings given such terms in subsections (e) and (mm), respectively, of section 1861 of the Social Security Act (42 U.S.C. 1395x).

SA 1042. Ms. MURKOWSKI (for herself and Mr. STEVENS) 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 B of title IV, add the following:

SEC. ___. TREATMENT OF PHYSICIANS' SERVICES FURNISHED IN ALASKA.

Section 1848(b) (42 U.S.C. 1395w–4(b)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following new paragraph:

''(4) TREATMENT OF PHYSICIANS' SERVICES FURNISHED IN ALASKA.—

''(A) IN GENERAL.—With respect to physicians' services furnished in Alaska on or after January 1, 2004, and before January 1, 2014, the fee schedule for such services shall be determined as follows:

''(i) Subject to clause (ii), the payment amount for a service furnished in a year shall be an amount equal to—

''(I) in the case of services furnished in calendar year 2004, 90 percent of the VA Alaska fee schedule amount for the service for fiscal year 2001; and

''(II) in the case of services furnished in each of calendar years 2005 through 2013, the amount determined under this clause for the previous year, increased by the annual update determined under subsection (d) for the year involved.

''(ii) In the case of a service for which there was no VA Alaska fee schedule amount for fiscal year 2001, the payment amount shall be an amount equal to the sum of—

''(I) the amount of payment for the service that would otherwise apply under this section; plus

''(II) an amount equal to the applicable percent (as described in subparagraph (C)) of the amount described in subclause (I).

''(B) VA ALASKA FEE SCHEDULE AMOUNT.—For purposes of this paragraph, the term 'VA Alaska fee schedule amount' means the amount that was paid by the Department of Veterans Affairs in Alaska in fiscal year 2001 for non-Department of Veterans Affairs physicians' services associated with either outpatient or inpatient care provided to individuals eligible for hospital care or medical

services under chapter 17 of title 38, United States Code, at a non-Department facility (as that term is defined in section 1701(4) of such title 38.

''(C) APPLICABLE PERCENT.—For purposes of this paragraph, the term 'applicable percent' means the weighted average percentage (based on claims under this section) by which the fiscal year 2001 VA Alaska fee schedule amount for physicians' services exceeded the amount of payment for such services under this section that applied in Alaska in 2001.''.

SA 1043. Mr. ALLARD 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 coverage under the medicare program, and for other purposes; which was ordered to lie on the table; as follows:

On page 377, between lines 12 and 13, insert the following:

''(I) Section 1851(d) (relating to the provision of information to promote informed choice).

''(J) Section 1851(h) (relating to the approval of marketing material and application forms).

''(K) Section 1852(e)(4) (relating to treatment of accreditation).

''(L) Section 1857(i) (relating to Medicare+Choice program compatibility with employer or union group health plans).''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 26, 2003 in SR–328A at 9 a.m. The purpose of this meeting will be to review H.R. 1904, The Healthy Forests Restoration Act of 2003.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 24, 2003, at 10 a.m. to conduct a hearing on ''Bus Rapid Transit and Other Bus Service Innovations.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, June 24, 2003, at 9:30 a.m. on Reform of the USOC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 24 at 10 a.m. in room SD–366. The purpose of this oversight hearing is to receive testimony on issues associated with changes in the relationship between the U.S. Department of Energy and the contractors operating its National Laboratories, other laboratories and sites.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 24, 2003 at 2:30 p.m. to hold a hearing on U.S. Relations With A Changing Europe: Differing Views on Technology Issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, June 24, 2003, at 10 a.m. for a hearing entitled ''Controlling the Costs of Federal Health Programs by Curing Diabetes: A Case Study.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Tuesday, June 24, 2003, at 9:30 a.m. in SDG 50.

Agenda

1. Indexing All Awards for Future Inflation: This amendment indexes claim award values to inflation.

2. Removing Collateral Source Offsets: This amendment ensures that more money will go to claimants by striking all existing collateral source offsets in the bill except for compensation from past settlements and judgments for the same asbestos-related injury.

3. Doubling the Statute of Limitations: This amendment doubles the statute of limitations from 2 to 4 years to allow more claimants access to the fund and to help alleviate the potential backlog of claims at the beginning of the Fund's creation.

4. Coverage for Claimant Exposures on U.S. Flag Ships or While Working for U.S. Companies Abroad: This amendment broadens eligibility to include claims made by U.S. citizens exposed to asbestos while serving on any U.S. flagged or owned ship or exposed to asbestos while working for U.S. companies overseas.

5. Strengthening Enforcement of Contributions: This amendment strengthens the Administrator's cause of action to enforce contributions by permitting the assessment of punitive damages for willful failure to pay.

6. Recoupment Authority for the Administrator: This amendment protects the funds available to pay claimants by permitting the Administrator to recover any financial hardship or inequity adjustment in future years if a company later becomes financially capable of paying its full allocation into the fund.

7. Criminal Penalties for Fraud or False Information: This amendment protects the integrity of the claims administration process by imposing criminal penalties for fraud and false statements made against the Fund.

8. Bankruptcy Certification: Requires the bankruptcy court to certify whether or not asbestos liabilities were the cause of the bankruptcy.

9. Congressional Oversight—Administrator Annual Reports: This amendment provides appropriate Congressional oversight by requiring the Administrator of the Asbestos Fund to submit an annual report on the functioning of the Fund to Congress.

Technical Amendments

10. Hatch Technical Amendment: Technical amendments to S. 1125.

Other Agreed Upon Amendments

11. Hatch Libby Amendment: Senator BAUCUS has agreed to this Amendment, which ensures that claimants from Libby, Montana will be compensated from this Fund and that their claims will be evaluated by the exceptions panel due to the unique nature of the asbestos there.

12. Hatch Asbestos Ban: This amendment prohibits the manufacture, distribution and importation of the consumer products to which asbestos is deliberately or knowingly added. The amendment also contains specific exemptions and authorizes the Administrator to hear and grant exemptions on a case by case basis.

13. Feinstein Second Degree to Hatch Asbestos Ban: This amendment adds certification requirements for the Government Use exemption, and authorizes the Administrator of the EPA to review the exemption for roofing cements and related products.

Medical Criteria Amendments

14. Hatch Medical Exceptions Panel Amendment: This panel will review claims which do not fit the criteria but may have an exceptional case to merit payment. Libby claims will automatically go through this panel.

15. Hatch Striking Product ID Amendment: (Leahy co-sponsor)—Drops requirements to identify particular asbestos product.

16. Hatch Latency Period Amendment: (Leahy co-sponsor)—Clarifies the 10-year latency period for all claims.

17. Hatch Medical Monitoring Amendment: Requires the administrator to notify qualifying claimants about medical monitoring options.

18. Hatch Doctor Evaluation Amendment: Requires physician to evaluate smoking and exposure history before making a diagnosis.

19. Hatch Deceased Claimant Amendment: Eliminates in-person examination requirement for persons who have died prior to filing their claim.

20. Hatch Disease Categories and Standards Amendment: (Sec. 124)—Replaces the previous criteria with a new level for severe asbestosis (V); a mixed-causation level (II); three levels of lung cancer payments; substantial occupational exposure measured in ''weighted'' years.

21. Hatch Independent Review Amendment: This allows the Asbestos Court to conduct its own reviews of medical evidence to ensure quality control.

22. Hatch Smoking Assessment Amendment: Allows the Asbestos Court to make a limited investigation into a claimant's smoking history to determine veracity.

23. Hatch Treating Doctor Amendment: Requires that a doctor making a diagnosis be the ''claimant's doctor,'' as opposed to ''treating'' doctor.

24. Hatch IOM Study Amendment: Directs the Institute of Medicine to study the link between asbestos and ''other cancers.''

25. Hatch Weighted Exposure Amendment: For substantial occupational exposure requirement, the weighted exposure gives more credit for exposure in earlier years, or in certain occupations, than exposure in more recent, post-regulation years.

26. Hatch Take Home Exposure Amendment: Amendment clarifies that claimants exposed to asbestos by cohabitants who brought home asbestos on their clothes from their jobs will meet the exposure requirement in the bill.

27. Kyl Significant Amount Amendment: This amendment amends section 124(a)(8)(B) and (C) of S. 1125 to require ''significant amounts'' of exposure to qualify for having ''significant occupational exposure.''

28. Kyl Significant Amount Amendment: This amendment amends section 124(a)(16)(B) and (C) of amended medical criteria to require ''significant amounts'' of exposure to qualify for having ''significant occupational exposure.''

29. Kyl Lock Box Amendment: Inserts a new section 223(e) into the introduced bill that requires a ''lock box'' mesothelioma account used solely to make payments for claimants at Levels IV, VII, and VIII.

30. Kyl Lock Box Amendment: Inserts a new section 223(e) into S. 1125 as amended with new Hatch criteria that requires a ''lock box'' mesothelioma account used solely to make payments for claimants at Level IX, Lung Cancer II, Severe Asbestos II and Severe Asbestos I.

31. Leahy Colorectal Cancer Amendment: Adds colorectal cancers as compensable cancers in the fund.

32. Leahy Take Home Exposure Amendment: A claimant meets the medical requirements if they can show exposure to asbestos was result of living with a person who was occupationally defined.

33. Kennedy Medical Advisory Committee/Exceptional Medical Claim Amendment: Adds to section 114 to grant the chief judge the authority to appoint a Medical Advisory Committee of doctors with certain qualifications. Also creates, in section 124, a process for a claimant to submit an application for an ''exceptional medical claim'' that does not fall within the medical criteria parameters within the bill.

34. Kennedy Awards Amendment: Amends the awards allowed by increasing the amounts for: (1) Lung Cancer I to ''individual determination''; (2) Lung Cancer II to $500,000 or $1,500,000; (3) Mesothelioma to $1,500,000; (4) Increases amounts non-smokers receive by lots of money.

35. Kohl Mesothelioma Amendment: Increases the mesothelioma compensation award from $750,000 to $1,500,000.

36. Feingold Medical Monitoring Amendment: Establishes a medical monitoring system within 180 days of the Act's implementation. Creates criteria required to obtain medical monitoring and the protocols used for medical screening. Screening shall occur within 5 years. The administrator will promulgate procedures and regulations establishing medical monitoring program.

Other Amendments

37. Hatch Back-End Amendment: Provides defendant contributors the option to continue paying into the fund after year 27 or be subject to a civil claim filed in federal court.

38. Hatch Silica Mixed Dust Amendment: This amendment clarifies that asbestos related mixed dust claims are covered by the bill.

39. Grassley Asbestos Court Amendment: Eliminates the Court of Asbestos claims, instead housing the tribunal in the Federal Court of Claims. The Chief Judge may appoint up to 20 special asbestos masters without Congressional approval. A special master will make the determination, appealed to the Court of Claims and the Federal Circuit.

40. Grassley Federal Liability Amendment: Amendment provides that nothing in the act establishes liability against the Federal Government nor should it be construed to obligate funding from the United States government.

41. Leahy Environmental Crimes Amendment: Amendment enhances the penalties for environmental crimes by expanding the available crimes covered involving asbestos and applies the provision retroactively and requires the person who discovers the crime report to the proper State law enforcement authorities within 30 days.

42. Sessions Cap on Attorneys' Fee Amendment: Amendment imposes a 10 percent cap on attorneys fees.

43. Sessions Pro Bono Amendment: Amendment requires the Asbestos Court to provide information to claimants of pro bono representation. Attorneys must provide notice of pro bono representation.

44. Sessions Substitute Amendment: Amendment substitutes S. 1125 with language from Senator Nickles alternative tort reform proposal.

45. Leahy FOIA Amendment for the Commission: Amendment extends the Freedom of Information Act to apply to the Asbestos Insurance Commission.

46. Leahy FOIA Amendment for the Office of Asbestos Injury Claims Resolution: Amendment extends the Freedom of Information Act to apply to the Office of Asbestos Injury Claims Resolution.

47. Leahy Successor in Interest Amendment: Requires that a business that changes its formal structure, yet ''substantially continues'' to maintain the same function, will remain obligated to fund the Trust.

48. Kennedy Purpose of S. 1125 Amendment: Amendment specifies that the purpose of S. 1125 should be expeditious compensation to individuals exposed to asbestos, provide compensation based on a system ''flexible enough to accommodate individuals whose conditions worsen'', to establish a trust fund to create certainty and predictability, and relieve federal and state courts of asbestos litigation burdens.

49. Kohl Contingent Call and Fund Certification Amendment: Amendment permits the Administrator to assess additional contributions during the first 27 years of the fund and/or decline any scheduled allocation reductions unless the Administrator certifies. Amendment also requires the Administrator, prior to reducing defendant allocations, to certify that the fund will have sufficient money to compensate past, present and future claimants, for various segments during the life of the fund, including a procedure for making the determination.

50. Feinstein Occupational Related Disease Study Amendment: Amendment requires any excess funds from the Trust to be directed to NIH for the study of occupational-related diseases.

51. Feinstein Date of Occupational Exposure Amendment: This amendment strikes the December 31, 1982 cutoff dates for occupational exposures.

52. Feinstein Back End Proposal: Requires mandatory payments to continue after year 27 at year 26 levels if the Administrator deems it necessary to ensure adequate funding of the Fund. The Administrator will provide a report to Congress if additional future funds are necessary.

53. Feinstein Asbestos Ban Amendment: Adds Title V to ban the use of asbestos in commercial products. Provides for exceptions with a list of products and provides for civil penalties. Amends title 18 U.S.C. to add chapter 34 enumerating an asbestos related crime. Provides money for research into asbestos-causing diseases, a mesothelioma registry and establishes Mesothelioma research and treatment

centers. The amendment is superfluous after Senators Hatch, Feinstein, Kohl and Murray agreed to the Hatch Asbestos ban Amendment.

54. Feingold Sunset Amendment: Provides a check on liability that (c) and (d) has no effect on January 1, 2010 unless the Administrator certifies prior to that date that 95 percent of all compensable claims file on or before May 1, 2006 have been paid in full.

55. Feingold Payments Amendment: Amendment changes the word ''less'' to ''more'' on page 40 line 4 so that all payments will be made within 3 years.

56. Durbin Lawsuit Filing Date Amendment: Amendment does not require any lawsuit filed before June 1, 2003 to be dismissed prior to adjudication.

57. Durbin Prior Asbestos Expenditure Amendment: Amends the term ''prior asbestos expenditure'' to exclude defense costs mounted in a successful defense against an asbestos claim.

58. Durbin FELA Amendment: Amendment removes the FAIR Act's preemption of FELA claims for asbestos injuries.

59. Durbin Hardship Amendment: Doubles the current caps for the financial hardship and inequity adjustments while revising the definition of ''inequity adjustments'' to include costs incurred in cases where the defendant mounted a successful defense.

60. Hatch Congressional Findings.

61. Leahy Congressional Findings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, June 24, 2003, at 9:30 a.m., to consider the markup of pending legislative and administrative business, including any other items that may be ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES
SUBCOMMITTEE ON PERSONNEL

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, and Committee on Armed Services, Subcommittee on Personnel be authorized to meet for a hearing on Supporting Our Military Families during the session of the Senate on Tuesday, June 24, 2003, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Subcommittee on Fisheries, Wildlife, and Water be authorized to meet on Tuesday, June 24 at 9:30 a.m. 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.

The hearing will take place in SD 406, Hearing Room.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, June 24, 2003, at 2:30 p.m., in open session to continue to receive testimony on issues affecting families of soldiers, sailors, airmen and marines.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that Meghan Taira, a fellow on Senator DASCHLE's staff, be granted floor privileges during the consideration of S. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I ask unanimous consent that Dr. Leonardo Trasande and Dr. Murali Raju, legislative fellows in my office, be granted floor privileges for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Jessica Donze and Michelle Curtis, two fellows in Senator BINGAMAN's office, be granted the privilege of the floor during the pendency of the debate on S. 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1323

Mr. FRIST. I understand that S. 1323 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1323) to extend the period for which chapter 12 of title 11, United States Code, is reenacted by 6 months.

Mr. FRIST. I now ask for its second reading and object to further proceeding on this matter.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR WEDNESDAY, JUNE 25, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, June 25. 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 for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 1, the prescription drug benefits bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, today we made great progress toward finishing the prescription drug/Medicare reform legislation. We debated many amendments. We had nine rollcall votes in relation to the pending amendments during today's consideration of this bill.

Tomorrow morning, we will resume consideration of S. 1. I would anticipate another busy day on this bill as well tomorrow. On Wednesday, the first rollcall vote was anticipated to be at 10 a.m. However, at this time the final legislative draft is not ready. We will continue to work on that draft over the course of the evening and into the morning, but at this juncture I will likely have to notify our Members as early as possible tomorrow morning as to whether we will actually call that rollcall vote at 10 a.m. I am hopeful that we can. If the legislative language is not ready, we will not have that vote at 10 a.m., but I hope to be able to announce that at 9:30 in the morning.

I do want to remind my colleagues that at this juncture we have approximately 42 amendments still pending to the bill. These amendments will have to be addressed by the Senate in some fashion, although I am very hopeful that many of these amendments can be disposed of without a rollcall vote. In any event, we have a lot of work to do before we have passage of this bill.

I, once again, will state that it is my intention that we will finish consideration of the prescription drug/Medicare reform bill prior to the July 4 recess—many hours, a lot of hard work, but we are on course to accomplish that, and I expect that we will do so.

I look forward to another productive day tomorrow as we begin the final consideration of this bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:13 p.m., adjourned until Wednesday, June 25, 2003, at 9:30 a.m.

EXTENSIONS OF REMARKS

AFFIRMATIVE ACTION RULING

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. BACA. Mr. Speaker, yesterday, Supreme Court decided to support the hopes and dreams of millions of Hispanic children. It tells them they will have the same opportunities, the same choices, the same future that others will. The Court was loud and clear when it said that diversity can be used by colleges and universities in their admissions policies.

This is a victory for the American people and for everything our country stands for. And we have this victory despite President Bush's efforts to undermine minority access to higher education. While saying he supports diversity, President Bush has actively worked to outlaw affirmative action at the University of Michigan and across the country. We cannot accept excuses. We cannot justify smoke and mirrors. The President says that considering race or ethnic background is unfair, but affirmative action programs are forward-focused to combat discrimination and promote diversity. I know that, the military knows that, corporate America knows that, and the 39 million Hispanics in this country know that. Today, the Supreme Court has said that it knows that too. The Supreme Court ruled over 25 years ago that diversity in admissions policies added to the educational and social experiences on our college and university campuses. The Court reaffirmed that decision today.

This ruling also sends a strong message to colleges and universities in California. At the University of California, the percentage of black and Hispanic students in medical and law schools has dropped since race-conscious admissions were eliminated a few years ago.

This year, black and Hispanic students make up only 16 percent of first-year students at California's five state-run medical schools and public law schools. In contrast, in the final years of race-conscious admissions, black and Hispanics consistently accounted for more than 20 percent of enrollment at these same schools. Acceptance rates for Hispanic applicants in the entire University of California system has dropped from 64 percent in 1997 to 47 percent in 2002. What is happening to those other students? They are not just numbers!!! They are people whose lives will be changed forever.

Today, fewer than 10 percent of college-aged Hispanics go on to higher education. Only 16 percent of Hispanics between the ages of 25–29 have Bachelor's degrees. What do these numbers tell us? It tells us that we do not have the same educational opportunities that others have.

President Bush says that we should not be satisfied with the current numbers of minorities on American college campuses. He's right. But other than nice words, what does he offer? He says one thing, then does another. He has followed budget cuts and funding freezes of programs that benefit Hispanic children with an attack on Hispanic educational opportunities.

The Bush Administration tried to find yet another way to hinder our children's chances to an equal and quality education. We are fortunate that he failed in his effort to leave even more children behind.

This loss for the Bush Administration and for its policies is a victory for every child that wants an opportunity for a better education and a better life.

TRIBUTE TO CHANDLER A. HATCH AND PETER NOTIER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. LIPINSKI. Mr. Speaker, I rise today in recognition of Chandler Hatch, a senior at Lyons Township High School in LaGrange, Illinois. On June 22, 2003, Chandler will receive the Presidential Scholars Medallion from the Department of Education.

Chandler was selected by a 32 member commission from a field of over 2,600 candidates. The commission honors students based on their academic achievements, leadership abilities, community service, and continued commitment to excellence. Chandler will be awarded as part of the 39th Class of Presidential Scholars.

In addition to winning this award, Chandler was able to invite a teacher who has proven to be most influential and inspiring. Chandler selected Mr. Peter Notier, a distinguished English literature teacher at Lyons Township High School.

I would like to recognize Mr. Notier for his continued commitment to education and proven excellence in teaching. I commend Mr. Notier for his dedication and outstanding service in the field of education.

Mr. Speaker, I ask my colleagues to join me in recognizing both Chandler and Peter and wish them success in the future.

VETERANS ENTREPRENEURSHIP AND BENEFITS IMPROVEMENT ACT OF 2003

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2003

Mr. EMANUEL. Mr. Speaker, I rise today in support of H.R. 1460, the Veterans Entrepreneurship Act of 2003. This is essential legislation which ensures that those courageous and honorable men and women who served in our armed forces have the opportunity to receive valuable educational and professional opportunities in the areas of entrepreneurship and business.

Veterans have served this country with distinction throughout its history, and many have risked their lives for our benefit. Especially in the wake of Operations Enduring Freedom and Iraqi Freedom, we should take steps to help our veterans successfully transition to civilian life.

The educational assistance provided by the Department of Veterans' Affairs is a benefit these veterans have earned, and it is important that they be able to use this assistance for valuable courses in the field of entrepreneurship, which teaches pragmatic and creative business practices useful in any field. In addition, by making it easier for disabled veterans to receive government contracts for their small businesses, this bill continues the partnership between these individuals and the government, and helps them to succeed in today's struggling economy. Operating a small business is a difficult but worthwhile endeavor, and veterans should have every opportunity to use their talents to aid the U.S. economy by starting new ventures based on their personal ingenuity.

Mr. Speaker, I applaud Representative RENZI and the other Members of the Committees on Veterans' Affairs and Small Business for introducing this legislation and bringing it to the floor today. It serves as a symbol of support for the heroes who have admirably protected our freedom and served this Nation in the armed forces.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2003

SPEECH OF

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 2003

Mr. CRANE. Madam Speaker, one of the biggest challenges facing our country today is the fact that nearly 41 million working Americans do not have health insurance. While some opt out of purchasing health insurance, a majority of people simply do not have access to affordable health insurance coverage. Routinely I hear from constituents in my district about this very problem. They are struggling to keep up with ever increasing insurance premiums and are left with few coverage options. Few can afford premium increases of 12 percent or more each year, especially in a slow economy. This is a problem in communities across the United States. In fact, the annual. cost to the United States for uninsured Americans is estimated to be somewhere between $65 and $130 billion.

More than 60 percent of the 41 million uninsured Americans work for a small business or are a dependent of a small business worker, and small businesses have been hardest hit by skyrocketing premiums. Currently, labor unions, medium-sized businesses and Fortune

500 companies like Ford, Chrysler and Wal-Mart have the ability to offer health benefits to their employees without complying with the diverse benefit-laden insurance mandates that exist in each of the 50 states. This exemption keeps health insurance costs down. Unfortunately, small businesses, less able to shoulder the burden of such mandates, end up paying almost 18 percent more than their big business counterparts for similar health insurance coverage. This is simply unacceptable.

Today, I join my colleagues in supporting, The Small Business Fairness Act (H.R. 660). H.R. 660 allows small businesses to form Association Health Plans (AHPs). I believe that AHPs can help reduce the number of uninsured, and I am proud to be an original cosponsor of this important legislation. By creating AHPs, small business may pool their resources and increase their bargaining power with insurers, which will allow them to negotiate better rates and purchase quality health. care at a lower cost. H.R. 660 is an important first step toward making health insurance more affordable and accessible.

The time has come for all Members of this House to support small businesses. It is time to pass the Small Business Fairness Act.

IN MEMORY OF RAY ABRIL, SR.

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. BACA. Mr. Speaker, it is with a great sense of pride that I rise today, on the floor of the United States House of Representatives, to pay tribute to the memory of Ray Abril, Sr.

Ray Abril, Sr. was a pillar of the community, a surrogate father, a molder of character, a counselor, a coach, a builder of men. Mr. Abril passed away Sunday, May 18, 2003. He was 93 years old. To the youth of Boy Scout Troop 45 of south Colton during 1942 to 1962, he was their mentor and Scoutmaster.

On May 17, 2003, former Scouts, members of the Abril family, and community leaders gathered to pay tribute to this great man of honor. They came from near and far, over 300 strong to honor him and to provide the testimony to the positive impact Mr. Abril had on the young people of San Bernardino County.

To Ray Abril, the Boy Scouts of America and the organization of his troop was paramount. His patrol leaders were as older brothers, who taught and quizzed the new members on their way to the rank of ''Tenderfoot.'' They learned knot tying, how to roll up sleeping bags, and how to pitch a tent. Through all of this, he did not coddle them; he let them move forward at their own pace and make mistakes. But he was always there to guide them when necessary. And guide them he did, but always in a clear direction and the young boys always admired and respected him.

I will remember Ray Abril, Sr. as a man who left his mark on history as a devoted and supportive husband, father, statesman, community leader, Boy Scout leader, mentor and a man of irrefutable wisdom. His remarkably full life is a model to all as an embodiment of the vibrant and dynamic spirit of a true American. My Barbara and I extend to the Abril family the thoughts and prayers of a grateful Nation.

SOLILOQUY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. DUNCAN. Mr. Speaker, one of my constituents has written a poem that showcases our Nation's flag in a glorifying manner. Mr. Victor Miller of Madisonville, Tennessee is the author of a poem titled ''Soliloquy.'' Mr. Miller is the son of Jeanette Miller, who passed this poem along to me. Our Country's morale and heritage is strong today because of patriots like Victor Miller. I would like to call ''Soliloquy'' to the attention of my colleagues and other readers of the RECORD.

SOLILOQUY

Imagine as a flag
on all folks passing by
with edifying waves
influencing their lives.

Esteemed a lofty reign
& honored to belong
all would offer tribute
in oaths, salute or songs!

Recognition could abound
for victories secured
defending liberties
despite many injured.

A patriotic stance
of opportunities
advocating, freedoms
by land, the air & sea!

In each of fifty stars
& else where when observed
the glory of your stripes
would valiantly be served!

Halleluah!!!!

PERSONAL EXPLANATION

HON. MAX BURNS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. BURNS. Mr. Speaker, I rise today to make note of how I cast my vote on roll number 293 on Thursday, June 19, 2003. As the record illustrates, I was present and cast my vote on roll number 292 at 1:44 p.m.; on roll number 293 recorded at 1:51 p.m., however, I was present but my vote was not recorded. While I cast my vote on roll number 293, technical difficulties prevented my vote from being recorded. My vote on roll number 293 as cast was in the affirmative.

TRIBUTE TO COMMANDER JEFF TAYLOR

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to our country are exceptional. The United States has been fortunate to have dynamic and dedicated military personnel who willingly and unselfishly dedicate their lives to service and make our country a safer place to live and work. Navy Commander Jeff Taylor is one of these individuals. On July 21, 2003, he will be honored as he retires from the U.S. Navy.

Jeff was raised in Southern California and graduated from Southern California College with a B.A. in Business Administration in 1978. After working for three years for a major defense contractor in Newport Beach, California, he accepted an appointment to Naval Officer Candidate School and received his commission in 1981.

Commander Taylor first served as the Combat Information Center Officer aboard the USS Cochrane based in Yokosuka, Japan and as the Fire Control Officer and Main Propulsion Assistant on the USS Leahy based in San Diego, California. He also served as an instructor at the Surface Warfare Officers School in Coronado teaching combat systems and ship control curriculum.

After completing Department Head School, Commander Taylor served as Chief Engineering Officer on the USS Worden based in Pearl Harbor, Hawaii. During this time he participated in Operations Desert Shield and Storm. Jeff also served as Maintenance Officer at Assault Craft Unit 5 at Camp Pendleton, California where he directed maintenance and repair of Navy hovercraft and subsequently served as an Engineering Branch Head and instructor at the Surface Warfare Officers School in Newport, Rhode Island. Jeff then returned to sea duty as Executive Officer on the USS Kidd based in Norfolk, Virginia and later served as Chief Staff Officer for Destroyer Squadrons 20 and 32.

Upon completing his sea duty, Jeff reported to the Naval Surface Warfare Center, Corona Division in March of 1999. Commander Taylor also earned a Masters Degree in Business Administration and a Diploma from the United States Naval War College. His personal decorations include the Meritorious Service Medal and Navy Commendation Medals.

Commander Taylor is happily married to his wife Bonnie and enjoys surfing and long distance running in his spare time.

Jeff's lifetime dedication to military service has contributed immensely to the betterment of our country and I am proud to call him a fellow community member, American and friend. I know that many community members are grateful for his service and salute him as he retires.

HONORING HARLEY-DAVIDSON ON ITS 100TH BIRTHDAY

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. KLECZKA. Mr. Speaker, today I am introducing legislation that would recognize the 100th anniversary of one of America's greatest corporations and a treasure of Milwaukee, Wisconsin—the Harley-Davidson Motor Company. 100 years ago this August in the Davidson family backyard at 38th Street and Highland Boulevard, William Harley and the Davidson brothers, Arthur, Walter, and William, finished work on their first motorcycle.

Shortly afterwards the Harley-Davidson Motor Company was built on the site of the company's current world headquarters in Milwaukee. Over the next 100 years Harley-Davidson has gone on to outstanding success,

releasing innovative and unique designs that have become so easily recognizable on roads worldwide. Harleys are known as the preeminent motorcycle both in this country and around the world and have become a staple of the U.S. Armed Services as well as police and fire departments throughout the country.

Harley-Davidson will be celebrating its 100th birthday this August in its hometown of Milwaukee, Wisconsin. This three-day event will include festivities on Lake Michigan, a never-before-seen exhibit of sketches, videos, clay models, and mock-up motorcycles demonstrating various stages of the design used process by Harley-Davidson's Styling and Engineering departments, as well as a parade of 10,000 Harleys through downtown Milwaukee.

The national celebration will have events leading up to the grand celebration in cities across America including Las Vegas, Nashville, Indianapolis, and Dearborn. I want to invite all Harley-Davidson enthusiasts, young and old, to come out and take part in this once in a lifetime event.

I urge my colleagues to join me in honoring this great American company by cosponsoring this resolution.

RECOGNIZING R.G. MORRIS

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. GRAVES. Mr. Speaker. I rise today to acknowledge the impeccable motor carrier safety record of Mr. R.G. Morris of Blue Springs, Missouri. Mr. Morris is a professional motor carrier operator for Yellow Transportation.

According to the most recent information from the Federal Motor Carrier Safety Administration, large trucks drove 7 percent of all vehicle miles traveled. In motor vehicle crashes, large trucks represented 9 percent of vehicles in fatal crashes, 3 percent of vehicles in injury crashes, and 5 percent of vehicles in property-damage-only crashes.

Mr. Morris reached a safety milestone when he recently surpassed one million miles driven without a preventable accident. This outstanding achievement, obtained by few drivers, demonstrates Mr. Morris' commitment to safety. To put this accomplishment in perspective, the average car driver would have to travel around the world forty times to equal this milestone.

Mr. Speaker, please join me in congratulating Mr. R.G. Morris for reaching this noteworthy milestone. I am proud to have a constituent as dedicated to highway safety as he is, and I wish him continued safe driving in the future.

TRIBUTE TO ABINGTON SENIOR HIGH SCHOOL

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. HOEFFEL. Mr. Speaker, I rise today to honor Abington Senior High School as the recipient of the 2003 Harris Wofford Award presented by Youth Service America and the State Farm Companies Foundation.

The Harris Wofford Award, named for former US Senator Harris Wofford of Pennsylvania, was established in 2002 for the first annual State Farm Awards Luncheon as part of the 13th Annual National Service-Learning Conference. This award honors Harris Wofford's life long ''mission of making service to others the common expectation and common experience of every young person in America''.

An award like this is long overdue for Abington Senior High School since they have been dedicated to community service for years. The service-learning program, which started in 1995, has encouraged the student body to take an active interest in helping the community. The positive impact this program has had on the community as well as the students is immeasurable. The 60,000 hours that students spent last year helping the community is an outstanding accomplishment. As a proud parent of two Abington Senior High School alumni, I am sincerely honored to be able to recognize the students of Abington for their dedication and commitment to helping others. Programs like these not only help the community but also teach our youth the power of working together and helping others.

NATO ALLIED COMMAND TRANSFORMATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. BEREUTER. Mr. Speaker, this Member wishes to note the establishment of Allied Command Transformation in Norfolk, Virginia, on June 19, and to congratulate Admiral Edmund P. Giambastiani, Jr., the commander of U.S. Joint Forces Command, on his appointment as the first Supreme Allied Commander Transformation.

The establishment of the first functional strategic command for the North Atlantic Treaty Organization (NATO) is an important step for the Alliance as it reforms its command structure to better carry out the missions needed to defend its member countries against today's threats. Allied Command Transformation replaces the old Allied Command Atlantic, which had been responsible for keeping open sea lanes between North America and Europe during the Cold War. Today, NATO faces a more pressing task: transforming allied forces from static formations designed for territorial defense to expeditionary forces able to deploy wherever needed to combat security threats. By locating Allied Command Transformation in Norfolk, home to U.S. Joint Forces Command, the transformation lessons being learned by the U.S. military can be shared with our NATO allies.

The establishment of Allied Command Transformation is an important part of the new NATO command structure, which reduces the number of NATO headquarters from 20 to 11 and eliminates geographic responsibilities. This leaner, deployable command structure will allow the Alliance to command missions wherever the member countries decide that NATO is needed.

This Member wishes to commend to his colleagues the attached speech by Lord Robertson, the Secretary General of NATO, at the ceremony to commission Allied Command Transformation on June 19, 2003.

REMARKS BY THE SECRETARY GENERAL OF NATO, LORD ROBERTSON, AT THE CEREMONY TO THE COMMISSION OF THE NEW ALLIED COMMAND TRANSFORMATION

Admirals, Generals, Ladies and Gentlemen, this is a unique ceremony, because we are not only welcoming a new commander—we are also changing fundamentally the very nature and purpose of this strategic headquarters. Indeed, we are creating a new organisation all together. That, in the history of this great Alliance, makes this a very special day.

Our first task is to thank the man who has led Allied Commander Atlantic since last October—Admiral Sir Ian Forbes. Admiral Forbes, your predecessor, General Kernan, once described Allied Command Atlantic as NATO's bridge to the future. When you took command of this headquarters, you vowed to continue that mission. You have done so and with true distinction. Your staff here at Norfolk has nothing but the highest praise for the work you have done here. That is an most important testimonial.

Let me add my own thanks, and congratulations, for the important work you have done here since January 2002, first as Deputy and then as Acting Supreme Allied Commander Atlantic. You have provided sound leadership in Norfolk through a critical period of concluding SACLANT's successful mission and defining the role—and I might add, daring role—this new command will play in the Alliance. We will continue to value your leadership as Deputy Supreme Allied Commander, Transformation.

Admiral Giambastiani—or Admiral ''G'', as you are already known here—this is your first day on the job. But you have already made history, as the first commander of the new Allied Command Transformation. This is an honour that is well deserved. I would like to congratulate you, as well, on this appointment.

In the coming years, Admiral, you will have a key role to play in shaping NATO's transformation. It is a transformation that has already begun, and the establishment of this Command—ACT—is proof positive.

ACT will shape the future of combined and joint operations. It will identify new concepts, and bring them to maturity. It will then turn these transformational concepts into reality; a reality shared by the entire NATO Alliance. And it will do so in close cooperation with the U.S. Joint Forces Command co-located here, to ensure that NATO's transformation stays in lock step with the changes taking place in the United States.

Indeed, the creation of a new permanent command here in Norfolk—one dedicated solely to transformation—demonstrates the investment NATO is making in preparing itself for 21st century operations.

This Command underscores NATO nations' commitment to a continuous, permanent process of transforming and modernising our armed forces.

ACT is, in a very real sense, both the symbol of the new NATO, and the architect that will shape its future. It will play an invaluable role in ensuring that the Atlantic Alliance can continue to defend the security and interests of its members against threats and challenges which we cannot even imagine today.

ACT is a symbol of this Alliance's confidant embrace of the future and its challenges.

Admiral Giambastiani, as I said last week to NATO Defence Ministers in Brussels, your new title, Supreme Allied Commander Transformation, means that you more than

anyone else will personify the critical importance this Alliance places on transforming its capabilities for the 21st century. An awesome responsibility. But welcome nevertheless to the NATO family.

SUPPORT INCREASED TRANSPORTATION INVESTMENT

HON. ANÍBAL ACEVEDO-VILÁ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. ACEVEDO-VILÁ. Mr. Speaker, the House of Representatives is fortunate to have the leadership and commitment to critical transportation investment in Chairman DON YOUNG, Ranking Member JIM OBERSTAR, Subcommittee Chairman TOM PETRI, and Subcommittee Ranking Member WILLIAM O. LIPINSKI. As Congress moves toward consideration of the reauthorization of the Transportation Equity Act of the 21st Century, we need to provide the necessary increased investment to meet the growing needs of surface transportation. I am confident that with the strong leadership on the Transportation and Infrastructure Committee, the reauthorization process will provide growth in the surface transportation program in order to ensure safe and efficient surface transportation networks.

Investment in surface transportation is critical to our economy, the environment, and quality of life. Transportation related investment produces new jobs and is directly related economic activity. Investment in efficient transportation networks also relieves and prevents congestion, a serious environmental challenge and costly burden facing regions throughout the U.S. and Puerto Rico.

Transportation investment goes beyond moving people and goods and providing fertile ground for economic growth and prosperity. Transportation is about safety and the health of our citizenry, whether they travel on highways, urban arteries, subways, bikes or as pedestrians.

Puerto Rico has tremendous mobility related challenges that we are addressing through an important partnership between the Commonwealth, Congress, and the federal government. While Puerto Rico is a small island only 100 miles by 30 miles in size, our population is nearing 4 million people.

Puerto Rico has one of the highest vehicles per mile of road ratio in the world. Congestion and related economic and environmental problems are a serious challenge facing Puerto Rico. Geographical constraints, a growing population, and economic growth all necessitate significant continued transportation investment.

Puerto Rico is nearing the completion of Phase 1 of the New Start Tren Urbano project in metropolitan San Juan. I will seek authorization of Phase 2 of this important project, for transportation that will enable necessary continued growth in the program so that safe, efficient intermodal networks result throughout.

Through adequate investment, we can build today to meet the increasing demands of the future. Investment in transportation infrastructure produces more than highways, new start light rail projects, or high-speed ferryboats. Transportation investment is also about safety, economic development and quality of life. I urge my colleagues to support the leadership of the Transportation and Infrastructure Committee who will fight for necessary investment in transportation to meet the growing needs of tomorrow by necessary investment today.

TRIBUTE TO ROBERT PATRICK

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a great Arkansan, an outstanding citizen and one of our state's enduring treasures, Robert Patrick. I am proud to recognize Mr. Patrick in the United States Congress for his invaluable contributions and dedicated service to the people of Arkansas County and the nation.

Mr. Patrick was born and raised in DeWitt, which is located in the same county where I was raised. While he was still a teenager, Mr. Patrick left the small community where he grew up to serve his country in the United States Navy. After returning home from his distinguished military service, Mr. Patrick married his lovely wife Doris, a fellow Arkansas County native.

Mr. Patrick built a successful career as an energetic and successful salesman traveling the country to make a living and support his family. He, Doris and their two children, Pam and Kevin, lived in locales as varied as California, Missouri and even Connecticut, where the Patrick family owned and operated a sports and hobby shop.

As Mr. Patrick neared retirement age, he and Doris decided to move back to her hometown, St. Charles, where his dedication to community service took root. Just two years after moving to St. Charles, Mr. Patrick was elected mayor, and it seems like he hasn't rested since.

Personally, I think of him as the consummate utility man—and not because he has worked tirelessly to upgrade the natural gas, water and sewer infrastructure in St. Charles. Rather, just like a good utility player on a baseball team that's willing to play any position in the field to help his team, Mr. Patrick has been willing to do anything to improve his town. He has done everything from securing a full-time police officer for St. Charles to erecting the city's annual Christmas light display.

Mr. Patrick embodies everything that's wonderful about living in small town America. He has generously shared his time and talent with the citizens of Arkansas County and it's a better place to live because of him. On behalf of Congress, I salute Mayor Robert Patrick of St. Charles, and thank him for his tireless service to his community, his state and his nation.

HONORING THE RETIREMENT OF MAJOR GARY L. BERGOSH

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize Major Gary Bergosh and celebrate his safe return home from active duty in Operations Enduring Freedom and Iraqi Freedom. Gary is the ultimate example of a citizen soldier by serving his country for four years of active duty in the Marine Corps Reserves and the state of Florida for the past ten years practicing law.

Gary was raised in a Navy family and attended elementary, middle and high school in Pensacola, Florida. Gary attended Pensacola Junior College and graduated from The University of West Florida. Shortly after graduation, Gary attended Marine Corps Officer Candidate School, where he was commissioned as a Second Lieutenant.

Gary attended law school at the University of Memphis while serving in the Marine Corps reserves. Upon completion, Gary entered active duty with the Marine Corps and served three years in Okinawa, Japan as a prosecutor and a defense attorney.

After leaving active duty with the Marine Corps, Gary decided to return home to Pensacola and became a prosecutor for the State Attorney's office.

Gary is currently a senior attorney for the Federal Government, a Major in the United States Marine Corps Reserves, and in November of 2000 was appointed by Florida Governor Jeb Bush to serve as a member of the Escambia County School Board.

Gary's Marine Corps unit, the 4th Assault Amphibian Battalion, was activated on January 27, 2003 to fight the nation's war against terrorism.

Gary served as the Battalion's Executive Officer in Kuwait and Iraq during Operations Enduring Freedom and Iraqi Freedom. Gary returned with his Battalion to the United States on June 6, 2003. Gary will be demobilized from active duty on September 1, 2003.

While at the Marine Corps Officer Candidate School, Gary married the former Carissa Borders, a native of Pensacola. Gary and Carissa are currently the proud parents of Alexander. The Bergosh family are active members of their church and community.

Mr. Speaker, I would like to recognize Major Gary Bergosh for the example he has set in his community. I offer my sincere thanks for all that he has done for Northwest Florida and this great nation.

PERSONAL EXPLANATION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. KOLBE. Mr. Speaker, yesterday, I was unavoidably detained and missed votes on the following measures:

1. H. Res. 264—Expressing sympathy for the victims of the devastating earthquake that struck Algeria on May 21, 2003 (#297). Had I been present, I would have voted ''aye.''

2. 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 (#298). Had I been present, I would have voted ''aye.''

3. 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 (#299). Had I been present, I would have voted ''aye.''

4. H.R. 2465—Family Farmer Bankruptcy Relief Act of 2003 (#300). Had I been present, I would have voted ''aye.''

PAYING TRIBUTE TO SAM JOHNSON

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute posthumously to Fort Campbell's Deputy Garrison Commander, Sam Johnson for his vital role and tireless commitment to his duties and country.

Sam Johnson began his career at Fort Campbell in 1972. He was the first civilian to fill the position of Youth Activities Director. Mr. Johnson quickly rose to the top at Fort Campbell, continually becoming the first civilian to fill the posts of Outdoor Recreation Director, Recreation Services Officer, and even being transferred to Panama in the Cold War to oversee the entire Army Recreation Program.

After serving in Panama, Mr. Johnson returned to Fort Campbell to, yet again, become the first civilian to hold the title and responsibility of Deputy Director of Personnel and Community Activities. In just a few years, he became Director of Personnel and Community Activities. Mr. Johnson's excellent administrative skills shined in his position as Deputy Resource Manager, which helped him to obtain his appointment as the only civilian to ever serve as Deputy Garrison Commander.

For the past 11 years, Mr. Johnson has served as Deputy Garrison Commander. His love for his country is evident by his devotion to his job. Despite his diagnosis of non-Hodgkin's lymphoma, he still continued with his duties. Mr. Johnson was able to perform his responsibilities as Deputy Garrison Commander until his recent death. Deputy Garrison Commander Sam Johnson emulated his principles of hard work and never giving up.

Mr. Speaker, I wish to extend the gratitude of myself and the entire Nation to Sam Johnson in recognition of his outstanding commitment and service to Fort Campbell and to our country. I ask my colleagues to join me in thanking him and offering comfort to his family and Fort Campbell, as they will truly miss Sam Johnson, a man of true courage and character.

CONGRATULATIONS CONTINENTAL MICRONESIA ON 35TH ANNIVERSARY

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Ms. BORDALLO. Mr. Speaker. I rise today to congratulate Continental Micronesia on its 35th anniversary and to wish a happy birthday to CEO Mark Erwin and employees of Continental Micronesia.

I also want to take this time to commend the services rendered by Continental Micronesia to the island of Guam. Guam is the regional hub for Continental Micronesia, and we are proud of the network that strengthens ties between Guam and our Pacific neighbors. Tourism is the leading private sector industry on Guam, and Continental has provided consistent, reliable service to Guam and to destinations across the entire Pacific Rim including: Cairns, Australia; Denpasar, Indonesia; Hong Kong; Honolulu, Hawaii; Koror, Palau; Kosrae, Micronesia; Kwajalein, Marshall Islands; Majuro, Marshall Islands; Nagoya, Japan, Niigata, Japan, Osaka/Kenai, Japan; Pohnpei, Micronesia; Saipan, Commonweath of the Northern Mariana Islands; Sapporo, Japan; Sendai, Japan; Taipei, Taiwan; Chuuk, Micronesia; and Yap, Micronesia.

Continental Airlines moved its headquarters to Los Angeles, California in July, 1963, as it provided important transportation services to members of the armed forces between the United States and Asia during the Vietnam War. In response to its increased importance in the Pacific during the Vietnam War, Continental formed Air Micronesia in 1968. Air Micronesia, now known as Continental Micronesia, has become one of the principal passenger airlines for the islands of the Pacific, providing services between the islands and nations along the Pacific Rim and the mainland.

Under trailblazing CEO Robert F. Six, Continental Airlines mixed creativity with ingenuity in establishing many of its flight routes in the Pacific. During the 1960's, Continental Micronesia would staff flights with mechanics and carry spare materials on board in order that passenger airliners could land on and embark from coral island landing strips. The company was also innovative in that it opened hotels and restaurants at its island destinations in order to stimulate tourism.

In 1976, Air Micronesia began providing services between Saipan and Japan. This additional service would prove to be vital to the future economic growth of Guam, for the vast majority of the over one million tourists that visit Guam each year are Japanese. In fact, Continental Micronesia's Guam-Tokyo, Japan route became the airline industry's single most profitable route in the world. We on Guam are grateful for this mutually beneficial relationship, and we look forward to working together with Continental to perpetuate further growth of the visitor industry on Guam.

I want to express my deepest gratitude to Continental Micronesia and its employees for their years of hard work and dedication to the people of Guam, as they celebrate their 35th birthday. Without their commitment, the visitor industry on Guam could not thrive.

HONORING THE MEMORY OF MR. HOWARD D. SAMUEL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great admiration that I rise today to honor the memory of Mr. Howard D. Samuel, and his lifelong contributions to our great country. Howard passed away on June 19, 2003. His efforts as a veteran of the labor movement, as well as his numerous positive accomplishments during his long career, are worthy of the highest commendation.

Howard began his work in the labor movement in 1949 as an organizer with the Amalgamated Clothing Workers of America. He was then elected as international vice president in 1966. His dedication and unrelenting service to the movement paved the way for new and innovative solutions to labor problems and issues. In 1977, he was appointed U.S. Deputy Secretary of Labor for International Labor Affairs by President Carter. His role as Deputy Secretary allowed him the opportunity to be involved with many facets of the department such as international trade, trade adjustment assistance, and the International Labor Organization.

In 1979, Howard was elected President of the Industrial Union Department, a federation consisting of over 50 national and international unions affiliated with the AFL–CIO. During his presidency, he founded the Collective Bargaining Forum, a study group of union presidents and various company CEOs. This Forum initiated several groundbreaking reports on industrial relations issues. In 1991, Howard was the first labor representative to ever be appointed to the Defense Science Board, a key advisory organization to the Secretary of Defense.

Howard, by serving in the U.S. Army from 1943 to 1945, exhibited his true sense of patriotic duty to our nation. He also served as vice chairman of both the New York Coalition and the Council on Competitiveness. Along with his many other contributions to society, he was also a trustee and board member of the Carnegie Corporation, the Martin Luther King, Jr. Center in Atlanta, as well the American Civil Liberties Union, to name just a few.

Mr. Speaker, Howard D. Samuel dedicated his life to supporting the labor movement and serving as a leader and role model for all Americans. I respectfully ask that you and my other distinguished colleagues join me in remembering Mr. Samuel and his lifetime of achievement and devotion to our great country. He will be remembered honorably and truly missed.

IN RECOGNITION OF JOSEPH C. SPICUZZO

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. PALLONE. Mr. Speaker, I rise today to recognize Joseph C. Spicuzzo, a friend and distinguished public servant who has dedicated much of his life to improving the lives of others. Joe is being awarded the Americanism Award by the Anti-Defamation League tonight in New Brunswick, New Jersey not only for his distinguished public service but for his dedication to raising funds for important charitable causes.

Joe began his long career of public service with his election as Mayor of Spotswood in 1976 and currently is the Middlesex County Sheriff and the Chairman of the Middlesex County Democratic Organization. Joe was also asked by Governor McGreevey to take on the added responsibility of being the ''Chair of Chairs'', an informal position that allows him direct access to the Governor and his staff to help resolve outstanding issues affecting the individual counties in the State. Joe has demonstrated great success in leadership positions mainly because of the confidence people

have in his interpersonal skills, his ability to settle disputes, and his affable manner.

In addition to the dedication Joe has illustrated in his public service, he has been a tireless fundraiser for important charitable causes. He has raised funds for the American Heart Association, a cause especially dear to him because of the death of his father at an early age from this silent killer. Joe became a key figure in the annual fundraising drive, Operation Heartbeat, held every February on WCTC radio station. He has been recognized with an American Heart Association Testimonial, the March of Dimes Franklin Award, the Salvation Army OTHERS Award and the B'nai B'rith International Humanitarian Award. He was also named Man of the Year by the George Otlowski Citizens League, the North Brunswick Italian American Club, and awarded the Hubert H. Humphrey Friend of Labor Award in recognition of his friendship and outstanding work.

Joe and his wife, the former MaryAnn Longo, and their daughter, JoAnn now reside in South River, New Jersey. Their son, Charlie and his wife, Denise, returned to the Borough of Spotswood to begin their life together.

Mr. Speaker, on this day I rise up to acknowledge a truly remarkable individual and I ask that my colleagues join me in honoring the distinguished Joseph C. Spicuzzo for his untiring dedication and devotion to serving his community.

HONORING FATHER MICHAEL P. BAFARO

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. MCGOVERN. Mr. Speaker, I rise today to honor Father Michael P. Bafaro for his service to the local and international community.

Father Bafaro studied at St. Thomas Seminary in Bloomfield, CT; Seminary of Philosophy in Montreal, Canada; and Vesovile Seminary in Pordenone, Italy. At Vesovile, Father Bafaro was ordained on June 28, 1953. He worked for 11 years at Our Lady of Lourdes and Our Lady of Mt. Carmel in Worcester, Massachusetts before volunteering to travel to Sicuani, Peru to work with the often neglected Andean community.

His experience in Peru was a critical step towards his role as an international community leader and activist. He returned to Worcester to work with the Latino community. In Worcester, he founded the only Latino community-based organization in the city. His role as founder and executive director of Centro Las Americas, in addition to his longtime participation in the community thereafter, caused the organization to grant Father Bafaro the first Annual Lifetime Achievement Award.

Father Bafaro earned the position of Pastor/Administrator of Our Lady of Mt. Carmel-St. Ann in Worcester in 1986. This position had a special spiritual meaning for the Father Bafaro due to his close relationship with the Carmelites of Peru. Once again Father Bafaro excelled as a leader and defender of human rights and equality. He has proven to be a loyal advocate for children's education, cultural awareness, low-income housing, and employment opportunities for those in need. He built the Mt. Carmel Apartments for low-income and handicapped people in 1991 and the Italian-American Cultural Center.

Father Bafaro has been honored with the Worcester Sons of Italy Achievement Award and Social Justice Award; the Beacon Award from the Unitarian Universalist Church of Worcester; the Pro-Deo Ad Juventudem Medal; and on four separate occasions, he received the key to the City of Worcester. Father Bafaro also participated in organizations such as the Affirmative Action Commission for the City of Worcester; the Board of Directors of the Northeast Hispanic Catholic Pastoral Center; the Priest Senate of the Diocese of Worcester; the Governor's Commission of Puerto Ricans and Hispanics; the Executive Board of Worcester Cooperative Council; City Managers Manpower Commission; Coalition for Peace and Justice; the Federation of New England Catholic Charities and Social Services; the Order of Sons of Italy; the United Way Task Force; and Ad Hoc Committee for Statewide Education.

Father Bafaro supported the Worcester community in December 1999 after the fire that claimed the lives of six firefighters. He provided support and guidance to the families and friends of the fallen heroes.

He is the president of Worcester Community Cable Access television station where important community issues are presented and discussed. These examples show his devotion to raising the consciousness of others and the extent to which he stands for peace and justice. Father Bafaro has touched many lives, and has spent most of his life working to improve the lives of others. He has struggled alongside the underprivileged and promoted open-mindedness among people from multiple backgrounds.

I can attest to the extent at which Father Bafaro has assisted and guided the community of Worcester because he has collaborated with my staff and me on various projects, including the Latino Education Institute. I have witnessed the accomplishments of Father Bafaro as a local community activist and leader who has based his work on the broader goal of promoting justice and equality at home and abroad.

Mr. Speaker, I am sure that the entire U.S. House of Representatives joins me in thanking Father Michael P. Bafaro for his contribution to the community.

TAIWAN'S INCLUSION IN THE WHO

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. KING of New York. Mr. Speaker, today I rise in strong support of Taiwan's entry into the World Health Organization (WHO). Time and time again Taiwan has been thwarted from joining this international organization solely because of objections from the People's Republic of China. Most recently this occurred in May at the World Health Assembly in Geneva; even after Congress passed legislation (P.L. 108–028) authorizing the U.S. Government to implement a plan for Taiwan to obtain observer status and Secretary of Health Human Services Tommy Thompson publicly and firmly expressed U.S. support for Taiwan's inclusion in the WHO.

The recent SARS outbreak in Asia has made it very clear how important it is to allow Taiwan to participate in the WHO. While the People's Republic of China was suppressing information and statistics about the disease and covering up its scope, Taiwan, on the other hand, was reporting freely and accurately on SARS. It immediately offered to work with the WHO yet was denied; only later were two WHO experts dispatched to Taiwan. In addition, Beijing was quite unhelpful in alerting the WHO and neighboring countries as to when and where this outbreak originated causing additional infections and deaths.

We all have a responsibility to assist the WHO and inform the world when it comes to global health. For too long, however, Taiwan has not been given this opportunity because of political motivations. It is now time to allow Taiwan to join the WHO or at least allow it to obtain observer status. With the threat of outbreaks such as SARS sweeping across continents and infecting thousands, it is not only absurd but also immoral to keep the 23 million Taiwanese citizens from receiving its assistance. Taiwan, and the world for that matter, will be far better protected when it finally obtains WHO membership.

WHY ME? CLUB

HON. KATHERINE HARRIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Ms. HARRIS. Mr. Speaker, I rise to recognize an extraordinary group of high school students, who have set the gold standard for leadership, compassion, and selflessness in my hometown of Sarasota, FL.

In September of 2002, Zak Tanjeloff, a student attending Sarasota High School, founded the Why Me? Club to implement his vision of providing relief to the poverty-stricken children of South America.

Demonstrating amazing dedication and skill, Zak and his fellow students have organized and managed major relief efforts entirely on their own.

Motivated by a soul-searching question—''Why am I lucky enough to live the life I live when so many suffer so greatly throughout the world?''—they have collected and delivered medical supplies, school supplies, sporting goods, dental supplies, toiletries, toys, and other items that most children and adults take for granted to impoverished locations in Mexico, Guatemala, Honduras, and Surinam.

While their fellow students vacationed on Florida's beaches during Spring Break 2003, the Why Me? Club, in partnership with Operation Serving Children, delivered over $100,000 worth of much-needed medical supplies to the people of Chisec, Guatemala. Moreover, a second group of Why Me? members recently traveled once again to Chisec with yet another $100,000 in medical supplies.

Mr. Speaker, these exceptional young men and women deserve our thanks and our acclaim. Their generosity, their global awareness, and their commitment to the most vulnerable members of the human family demonstrate that the greatest virtues of our Nation still illuminate the hopes and dreams of our children.

HONORING SERGEANT DORIS HIGGINS

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. COX. Mr. Speaker, on July 6, 2003, the Laguna Beach Police Department will say farewell to retiring Sergeant Doris Higgins.

Sergeant Higgins began her career with the Laguna Beach Police Department on June 29, 1970, as a police dispatcher. Seven years later, she became a full-time officer assigned to the field services division of the department, where she worked until 5 years ago, when she was assigned to the traffic division.

What makes Sergeant Doris Higgins stand apart from other officers is the fact that she began serving her community as a police officer when women were just beginning to make inroads in the profession.

She has been a role model for women looking to break into the profession. She has guided many employees as they have begun and ended their law enforcement career. She has been a noticeable strength of the local law enforcement community. Now, the Laguna Beach Police Department must say goodbye after 33 years.

Today, I ask my colleagues to join with me in congratulating Sergeant Higgins on her retirement and thanking her for years of dedication to the citizens of Laguna Beach.

PERSONAL EXPLANATION

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. DAVIS of Illinois. Mr. Speaker, I was unable to cast votes on June 11 because I was attending a very important meeting involving healthcare with the President of the United States in my district in Chicago, Illinois. If I was present for rollcall votes for the following bills:

Rollcall 258 on agreeing to the resolution H.R. 2115, Flight 100—Century of Aviation Reauthorization Act;

Rollcall 259 on motion to suspend the rules and agree to Expressing Support for the Goals and Ideals of Human Genome Month and DNA Day;

Rollcall 260 on motion to Suspend the Rules and Pass, as Amend the Commercial Spectrum Enhancement Act;

Rollcall 261 on motion to suspend the rules and pass the Welfare Reform Extension Act;

I would have voted Yeas to all of these bills.

TORTURE DEATHS IN UZBEKISTAN REVEAL LACK OF PROGRESS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. SMITH of New Jersey. Mr. Speaker, in March 2002, the United States and Uzbekistan signed a declaration proclaiming a ''Strategic Partnership'' between our countries. This former Soviet republic, with the largest population of the five Central Asian countries, has played an important role in assisting the United States after 9/11, and I am grateful for that.

At the same time, as Chairman of the Helsinki Commission, I have deep concerns about the human rights situation in Uzbekistan, where no political opposition, no freedom of speech nor freedom of association are permitted. As a result of this situation, Congress has conditioned the release of financial assistance to Uzbekistan upon a determination by the Secretary of State that Tashkent is making ''substantial and continuing progress'' in meeting commitments specified in the March 2002 bilateral declaration, including in the field of human rights. The Secretary has twice—on August 26, 2002 and May 14, 2003—made such a determination.

Regrettably, there has been no ''substantial and continuing progress'' in the field of human rights in Uzbekistan. True, a human rights group has been registered, censorship has formally been lifted, and there have been amnesties, but these are largely token deliverables meant to give the appearance of progress. Uzbekistan has also admitted the U.N.'s Special Rapporteur on Torture. But all these gestures are more cosmetic than substantial. In fact, the U.N. Special Rapporteur concluded that torture is ''systematic'' in Uzbekistan. Instead of claiming credit for allowing him into the country at all, President Karimov should renounce this barbaric practice and Tashkent should take urgent measures to prevent and punish acts of torture.

Unfortunately, thus far President Karimov has refused to take even the simple step of acknowledging and renouncing torture. More to the point, just after the Secretary's most recent determination last month, Orif Ershanov and Otamaza Gafaro joined the unconscionably long list of individuals who have died as a result of torture or other abuse inflicted by Uzbek officials.

Once again, Uzbek officials maintain that these most recent deaths in custody were the result of ''natural causes.'' But the country's deplorable record undermines the credibility of such assertions. Frankly, I am surprised by Tashkent's claims; last year, there were two cases when Uzbek policemen who tortured prisoners, in some cases to death, received long prison terms. Their sentences constituted a sad form of progress in Uzbekistan, allowing observers to hope that law enforcement officials would have reason to fear serious consequences for mistreating people in their care. The latest assertions about ''natural causes'' signal clear regression to old positions that damage Uzbekistan's government and should be an embarrassment to the United States.

Particularly with respect to torture, Tashkent should immediately take several steps to demonstrate to the international community a serious commitment to make meaningful progress.

First, the Government of Uzbekistan should provide immediate access, organized by the OSCE, for independent medical experts to examine the bodies of Ershanov and Gafaro. Unfortunately, we have received indications that Uzbekistan is balking at admitting independent forensic specialists. Furthermore, Tashkent should establish a system of access for independent experts to investigate all cases of alleged torture and should act on the recommendations of the U.N. Special Rapporteur on Torture.

It is equally important that Uzbekistan unconditionally release those who have been jailed because of their political opposition or religious affiliation. I have repeatedly urged Uzbek officials, including President Karimov during his visit to Washington in March of last year, to release the writer Mamadali Makhmudov, for example. One of the Bekjanov brothers has indeed been freed, but two of his siblings remain in prison, and we have received reports from family members of their declining health. As the most recent deaths in custody demonstrate, fears that such prisoners may die from their mistreatment during incarceration are well founded.

Mr. Speaker, improved relations are in the interest of both Uzbekistan and the United States. But closer, deeper ties will not be built on the graves of Uzbekistan's citizens who have been tortured to death. I hope, Mr. Speaker, that I will soon be able to report back to my colleagues that President Karimov has taken meaningful steps to confront torture and bring a measure of justice to its victims.

BIOTECH DECISIONS SHOULD BE SCIENCE-BASED

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues the following editorial from the June 23, 2001, Omaha World-Herald. The editorial emphasizes the need to take a science-based approach regarding the issue of biotech crops and highlights a positive example in India. On the other hand, the European Union's continued moratorium on approving new agriculture biotech lacks a scientific basis. This discriminatory and protectionist stance harms U.S. farmers, consumers worldwide, and developing countries. The U.S. is correctly challenging the EU's position, which is transparently devoid of any relationship to sound science.

A TALE OF TWO MIND-SETS

Recent days have shown a big contrast in how some governments abroad approach the issue of genetically modified foods.

One development, from India, reflects a commendable, science-based approach to biotech crops. The other, from the European Union, indicates the E.U.'s continuing insistence on using bogus claims about biotech crops as an excuse to shut out U.S. food exports.

In India, the government says it is nearing regulatory approval of a genetically modified potato that has one-third more protein than normal. The new potato is to be distributed to school children as part of their midday meal.

The head of India's biotechnology department voiced strong support for the new product, calling it part of ''a technology for the future.'' Many of India's more than 1 billion people are plagued by dietary deficiencies in protein and vitamin A, she said, and biotech foods such as the new potato can help address the need.

In another encouraging sign, a group of Indian scientists stepped forward in April to rebut the claim by anti-biotech activists that the new potato is the brainchild of profit-seeking Western corporations: As reported

by The Associated Press, ''the Indian scientists made clear they are on the front lines of such developments.''

Last week, representatives of India's biotech sector' spoke out, saying that their industry' is in a state of ''near paralysis'' due to opposition from critics of genetically modified foods. One Indian biotech consultant lamented that the ''protest industry'' has ''exploited a few—technical violations and has made the entire system rigid.''

In Europe, anti-biotech activists enjoy particular clout, and last week talks between U.S. and E.U. officials over genetically modified foods broke down. The United States will now turn,to the World Trade Organization to appoint a panel to rule on the case. The United States is said to have a good chance of gaining a ruling that would compel the E.U: to end its ban on American biotech crops.

Don Lipton, a spokesman for the American Farm Bureau Federation, was right when he said that ''countries shouldn't be able to erect barriers for nonscientific reasons.'' In India, the government, to its credit, acknowledges that point. Regrettably, European governments are content to ignore it and continue their opportunistic stonewalling.

CONGRATULATING FRANK J. WSOL OF CHICAGO

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. EMANUEL. Mr. Speaker, I rise to congratulate Frank J. Wsol, the Secretary Treasurer of Teamsters Local 710, on being presented the Distinguished Community Service Award by the Anti-Defamation League at their annual dinner.

Frank Wsol epitomizes the principles of organized labor and the role it plays in our community. He has served loyally as a Teamster since 1946, and has ascended the ranks first as an Organizer, and later as Chairman of the Union's Health, Welfare and Pension Fund.

In addition to proudly serving as a Teamster, Frank has been a leader for all of labor including service as Chairman of the Illinois Joint State Grievance Committee and on the Executive Committee of the Chicago Federation of Labor. He currently serves as a member of the Executive Board for Joint Council 25.

Many of the principles of the organization and community that Frank has embodied for the last half century have come from his service to our country as a member of the U.S. Air Force. Frank served in both Japan and Korea, and has stayed active as a member of the Neer-Goudie American Legion Post 846.

Frank's care for his community has always included his love for children and his dedication to providing them with a bright future. He has dedicated time and energy to the Children's Advocacy Center in both Chicago and Hoffman Estates, and the Little City Foundation in Palatine.

Mr. Speaker, I join the Anti-Defamation League in recognizing Frank Wsol. I also congratulate Frank and his wonderful family: Florence, his wife of over 50 years, his late daughter Maureen, his son Michael and his fiancée Marlene Demuzio, his son Frank Jr. and his wife Madeline, and his grandsons Frank, Brian, Kevin and Steve. And I applaud the Anti-Defamation League for the work that they do to protect our liberty, and for honoring one of our most distinguished citizens.

CONGRATULATIONS TO MOSAIC

HON. TOM OSBORNE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. OSBORNE. Mr. Speaker, On July 1, 2003, two organizations deeply rooted in Nebraska will join hands to form a new organization dedicated to caring for people with developmental disabilities. I rise today to recognize and commend the beginning of this new organization—Mosaic.

Bethphage, founded in 1913 in Axtell, Nebraska, which is located in my congressional district, and Martin Luther Home Society, founded in 1925 in Sterling, Nebraska, is my colleague from Nebraska's, Mr. Bereuter's congressional district, bring 168 years of experience to the field of developmental disabilities. The consolidation of the two organizations will give Mosaic secure financial strength, fiscally responsible stewardship and diverse professional choices as it works to make life better for people with disabilities.

Mosaic will serve approximately 3,700 people in 16 states and Great Britain, and will employ more than 5,100 direct support professional, regional management and home office staff. Mosaic will have two corporate offices, both of which will be located in Nebraska.

Finally, Mosaic will provide a full range of supports and advocacy for people with disabilities from early intervention through elderly care. Services will include residential group home, host home, in-home supports, behavioral skills, and spiritual development.

As Mosaic officially begins operations on July 1, 2003, I want to congratulate this exceptional organization for their visionary leadership in the field of developmental disabilities. I feel I can speak for many Nebraskans when I say that I am proud that Mosaic calls Nebraska home.

REPRESSION SPREADING IN BELARUS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. SMITH of New Jersey. Mr. Speaker, Europe's last dictator, Belarus' Alyaksandr Lukashenka, appears determined to ignore the voices of the people of Belarus calling for basic respect for human rights and democratic principles a decade after that country gained its independence and joined the Organization for Security and Cooperation in Europe (OSCE).

As Chairman of the Helsinki Commission, I am disturbed by recent developments which demonstrate the growing repression in Belarus. There have been further restrictions imposed on the independent media, with the recent suspension of independent newspapers Navinki and Ekho. Just a few days ago, the publication Predprinimatelskaya Gazeta was suspended for three months. The offices of the trade union paper Solidarnost have been sealed by the authorities. Still other publications have received warnings that could lead to their closure. These actions were preceded by the three-month suspension of two prominent independent newspapers—Belaruskaya Delovaya Gazeta and BDG—For Internal Use Only.

The Lukashenka regime is also targeting schools. The National Humanities Lyceum, a highly respected high school promoting study of the Belarusian language and culture, is under fire, with its acting head to be replaced by a reportedly non-Belarusian-speaking official. Why? Because professors at the school support democracy and the Belarusian language and culture which ironically is anathema to the Belarusian strongman. Mr. Speaker, what kind of leader actively suppresses his nation's language and culture?

Moreover, a new crackdown on Pentecostal home meetings in western Belarus is underway, with fines being handed down on church members who permit their homes to be used for prayer meetings—a result of last year's restrictive religion law.

Non-governmental organizations (NGOs) are also facing increasing scrutiny, often for truly spurious reasons such as minor mistakes in registration documents. Several, including Ratusha, Varuta and the Youth Christian Social Union, are under threat of liquidation. Just a few days ago, the Homel regional court ordered the closure of the area's largest NGO, Civic Initiatives. The intensified campaign against NGOs and the independent media are widely regarded among domestic and international observers as a concerted attack on active and independent civil society structures.

Repressive actions against individuals continue as well. Recently, 18-year-old ZUBR activist Tatiana Elovaya was sentenced to 10 days imprisonment for manifesting her support in an April 3 demonstration outside the U.S. Embassy for the campaign to liberate Iraq. Several others, including 19-year-old Lyubov Kuchinskaya had served 10-day sentences earlier. Unfortunately, these are just some recent examples of a longstanding pattern of the Lukashenka regime's flouting of its OSCE commitments and continued disregard for the four OSCE criteria set forth three years ago by the Parliamentary Troika for Belarus.

Despite steps by the OSCE community, including the re-opening of the OSCE Office in Miensk (albeit under a more limited mandate), the seating of the National Assembly and the lifting of a visa ban, not only have reciprocal steps not been taken by the Belarusian authorities but the situation has indeed deteriorated further.

Earlier this year, I introduced H.R. 854, the Belarus Democracy Act, designed to assist the people of Belarus in regaining their freedom and enable them to join the European community of democracies. Key provisions of this Act also have been incorporated into the Foreign Relations Reauthorization bill. Mr. Speaker, the Lukashenka regime's continuing suppression of the longsuffering Belarusian people underscores the need for the Belarus Democracy Act and other efforts—including within the OSCE—to restore respect for human rights and institutions of democratic governance.

HONORING CLIFFORD THEODORE SHUMATE

HON. ERNIE FLETCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. FLETCHER. Mr. Speaker, it is an honor to rise today to pay tribute to a wonderful father and grandfather, resourceful businessman, and lifelong Kentuckian that, unfortunately, passed away on June 21, 2003. I speak of Clifford Theodore Shumate, a self-made man that rose from humble beginnings to build a successful textile-manufacturing outfit that now stretches across Kentucky's Bluegrass Region.

Clifford Shumate was born on September 9, 1914 in Fleming County, Kentucky. The eldest of seven children, Mr. Shumate struggled to provide for his family. When he was just eight years old, Mr. Shumate completed the third grade and was sent to work the land as a tenant farmer. Although he received only a limited formal education, Mr. Shumate was, nevertheless, a knowledgeable man that learned a great deal from his own experiences and self-determination.

In 1933, Mr. Shumate married Carrie Spivey and, together, they founded Griffin Manufacturing in Carlisle, Kentucky. In 1948, with resources totaling about $6,000 and a workforce of only eight employees, Mr. and Mrs. Shumate oversaw a modest t-shirt manufacturing operation. It took little time, however, for this small company to grow.

Within a year, Mr. Shumate expanded his company to include a second Carlisle factory with 150 employees. Following the construction of a third factory in Mt. Sterling, Kentucky, Mr. Shumate consolidated all of his plants into a new 36,000 square foot facility in Nicholas County. By 1973, with new plants in Paris, Cynthiana, and Maysville, Kentucky, Mr. Shumate administered a company with over 3,000 employees.

Clearly, Mr. Shumate's accomplishments in his home state of Kentucky cannot be questioned. However, his personal resolve and desire to grow led Mr. Shumate to open international facilities in Merelbeke, Belgium and Carlton Place, Canada.

After 33 years of service, Mr. and Mrs. Shumate retired in 1980. They left the company, now known as Kentucky Textiles, in the same manner in which they created it—together. Mr. Shumate's international textile firm, which began 55 years ago as a small t-shirt manufacturer in Carlisle, still remains in family hands. Mr. Shumate's son, Wayne, and his grandchildren, Cliff and Paige, are continuing the legacy that Clifford Shumate began long ago, at the age of eight, on the family farm in Fleming County, Kentucky.

PERSONAL EXPLANATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mrs. LOWEY. Mr. Speaker, during an absence yesterday, I regrettably missed rollcall votes 297–300. Had I been present, I would have voted in the following manner: rollcall No. 297: ''Yea''; rollcall No. 298: ''Yea''; rollcall No. 299: ''Yea''; rollcall No. 300: ''Yea.''

80TH ANNIVERSARY OF MAPE'S RANCH

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. CARDOZA. Mr. Speaker, I rise to commemorate the 80th anniversary of Mape's Ranch in Modesto, California.

Mape's Ranch was founded by E.T. Mape in 1923. The historic 10,000 acres of farmland and wetlands is nestled against the Stanislaus, Toulumne and San Joaquin Rivers, about ten miles west of Modesto. The primary crops produced by Mape's Ranch include wheat, corn, almonds, watermelons, tomatoes, and plums. The ranch also raises beef cattle, and is known as ''The Home Of One-Ton Bulls,'' and has as its famous slogan, ''Breed the Best, and Forget the Rest.''

These days, Mape's Ranch is owned and operated by the nephew of E.T. Mape, William ''Bill'' Lyons, Sr., his wife Mary Lynn Houghtaling Lyons, and their six children. Bill and Mary Lyons were both born in Minnesota, and married in 1949. This third generation family ranching business has built itself on family values, hard work, and dedication, and is looking forward to celebrating eighty years of active involvement with the California agriculture community.

The Lyons family, encompassing Bill and Mary, their six children, twenty-one grandchildren and three great-grandchildren, is recognized throughout the state as community leaders. Bill Sr. has been honored with the following community awards: Modesto Chamber of Commerce President's Award, 1991, the ''Fred Prince Memorial'' Good Egg Award, and the Stanislaus/San Joaquin County Cattlemen of the Year Award, 1984.

I am honored to personally know each member of the Lyon's family and it is with great honor that I commemorate the 80th anniversary of Mape's Ranch, a true icon of the Central Valley of California.

WORLD REFUGEE DAY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. SMITH of New Jersey. Mr. Speaker, as a co-chair of the newly formed Refugee Caucus, I rise on behalf of the world's 15 million refugees on the eve of World Refugee Day, which occurred last Friday, June 20th.

We know that the plight of refugees throughout the world is precarious. They have fled war, persecution, natural disasters, and severe poverty in their home countries. The lucky few live in camps, where attempts are made to provide the basic necessities but disease and hopelessness run rampant.

Those not in the camps are left to fend for themselves, aliens in a foreign land where they often lack food and shelter. Refugees who try to find work are often exploited and many women and children refugees become victims of forced sex trafficking rings.

It is not only important to remember the plight of the refugees, but also to remember those who have reached out to help the refugees. We know that UNHCR, The Hebrew Immigrant Aid Society, International Rescue Committee, Immigration Refugee Services of America, International Catholic Migration Agency, Lutheran Immigration and Refugee Services, Episcopal Migration Ministries, Church World Service, and many others provide tremendous and compassionate support for refugees throughout the world.

We also know that numerous governments have been generous in accepting refugees into their borders, including many in Africa. I would like to take a moment to recognize one of these governments—The Republic of Zambia.

For the last three decades, Zambia has been one of the most generous hosts of refugees in the world. Zambia's history of refugee protection began with its independence in 1964, when it hosted refugees fleeing wars in Angola, Mozambique, Namibia, South Africa and Zimbabwe. By 1967, UNHCR was operational in Zambia and remains today, working in partnership to protect refugees. Through the years, Zambia has afforded refugees freedom of movement, access to educational and social services including medical treatment, and land for farming.

In recent years Zambia has generously hosted over 280,000 refugees. Last year, Zambia launched an innovative and collaborative response to under-developed in local communities greatly impacted by large-scale and long-term refugee populations. The United States contributed $1 million to the ''Zambian Initiative'' which has worked to integrate long-staying Angolan refugees in Zambia's West Province. By promoting longer-term development of the education, health, environment and agriculture sectors and by allowing refugees and local populations to have equal access to these programs, the Zambian Initiative has offered a model to all countries hosting refugees.

I commend the continuing efforts of the Zambian government in seeking progressive national policies that have helped integrate refugees into their nation. I hope that the generosity of Zambia towards refugees and asylum seekers can be fully recognized by both our government and governments throughout the world. I am confident that they will continue to remain a generous supporter of refugees and hope that other nations will follow their example.

GROWING CONCERNS ABOUT IMPLEMEMTATION OF THE PATRIOT ACT OF 2001

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. HOLT. Mr. Speaker, in the immediate aftermath of the September 11th attacks, Congress enacted and the President signed into law the Patriot Act of 2001. As we all know, the country was in a state of shock over the events of September 11th, and the bill was an immediate reaction to that—being drafted, briefly debated, approved, and signed into law by October 26, 2001, a mere six weeks after the attacks.

The Patriot Act is a wide-ranging statute designed, as its stated purpose, to ''unite and strengthen America by providing appropriate tools required to intercept and obstruct terrorism.'' These tools include increased authority to intercept telephone and electronic communications, to conduct surveillance of private citizens, to seize electronic and voice mail messages, to execute and delay notice of the execution of warrants, and to access the business and private records of American citizens and others living in our country. It includes some provisions that most people would not question such as making wiretapping court orders apply to all of a suspect's phone lines.

The Patriot Act also expands the authority of U.S. government intelligence agencies to invoke the Foreign Intelligence Surveillance Act (FISA), which was originally enacted to track and capture international spies as distinct from domestic citizens and residents. It is worth noting that FISA surveillance requests in 2002 outnumbered all of those under domestic law for the first time since FISA was enacted.

Although the recognition of terrorist cells (like the hijackers) within our country led Americans to demand stronger action to identify and bring to justice those responsible for the terrorist attacks on our country on September 11th and to prevent any other such tragedy, the balance between liberty and security is notoriously difficult to strike. I voted in favor of the Patriot Act recognizing that, in that period of national anxiety, we would probably get the balance wrong and so I insisted that it incorporate sunset provisions for its most onerous provisions. Accordingly, some of this law's most troubling provisions granting increased police powers to our Federal government will expire at the end of 2005.

Now, nearly 22 months after the September 11th attacks, we should question whether we are more united and strengthened as a Nation in fact? The answer is yes in some ways, but probably not by operation of the Patriot Act. Although 1,200 men were immediately detained following the September 11th attacks on America and more subsequently, only one suspect—Zacarias Moussaoui—is actually being tried for his alleged involvement in those terrorist attacks.

At the same time, substantial numbers of suspects are being held in detention without counsel, without charges having been filed and without trials taking place. Moreover, countless numbers of citizens and legal residents have had assets seized and business transactions interrupted and have suffered many other disruptions in their personal and professional lives. These actions have caused much more widespread public unease and dissention than any feelings of national unity or strength that might result should a suspect actually be tried, convicted and brought to justice through operation of the Patriot Act.

In fact, soon after the initial round-up of detainees, the principal focus of the Bush Administration and many resources were diverted away from using the Patriot Act to find and rout al-Qaeda terrorism cells operating in the United States and around the world to waging and winning the war to topple Saddam Hussein's regime in Iraq. This was done even though U.S. intelligence agencies and the Bush White House could not demonstrate any clear and convincing connection between the Iraqi regime and Osama bin Laden, al-Qaeda or the events of September 11th or other terrorist connections to the U.S. that prompted the passage of the Patriot Act in the first place.

So what has the Patriot Act accomplished in terms of increasing the unity and strength of our Nation? 112 cities, counties, and towns across the country have passed resolutions urging federal authorities to show great respect for the rights of our citizens, when carrying out activities designed to fight terrorism and improve homeland security. Just last week, Alaska became the second state after Hawaii to approve a resolution in opposition to key elements of the Patriot Act. The Alaska State legislature is firmly controlled by Republicans, nevertheless they overwhelmingly supported a resolution that ''implores the United States Congress to correct provisions in the USA Patriot Act and other measures that infringe on civil liberties, and opposes any pending and future Federal legislation to the extent that it infringes on Americans' civil rights and liberties.'' In the words of one Alaskan state legislator: ''Guys are dying on the battlefield to protect our freedoms. It is up to us to protect those freedoms here at home.''

It is altogether fitting that you are gathered in the Princeton Public Library for this forum. I highly commend the sponsors and organizers of this two-part forum. Many organizations and individuals are expressing opposition to the provisions of the Patriot Act that prohibit library personnel from informing patrons if Federal agents have obtained records about their reading habits. In Washington, I was early co-sponsor of legislation sponsored by U.S. Congressman Bernie Sanders to exempt libraries and booksellers from orders requiring that they produce this sort of information about their patrons.

In a similar spirit, more Americans from all walks of life are joining with Muslim Americans and people of Middle Eastern descent to protest nationality-based registrations by the Immigration and Naturalization Bureau, which U.S. Attorney General Ashcroft began ordering last November for all men over 16 years of age in America from Iran, Iraq, Syria, Libya, Sudan, Afghanistan, Algeria, Bahrain, Eritrea, Liberia, Morocco, North Korea, Oman, Qatar, Somalia, Tunisia, the United Arab Emirates, Yemen, Pakistan and Saudi Arabia.

Congressman JAMES SENSENBRENNER, Republican Chairman of the House Judiciary Committee, has called for extensive hearings into the uses and implementation of the Patriot Act, expressing serious concerns. I support him in that, although the Bush Administration appears to be stonewalling. I have also personally asked FBI Director Robert Mueller for his account of the need, usefulness, and future justification of the Patriot Act.

But it is having another effect unintended by the strongest supporters of the Patriot Act and who want to see it extended and expanded. It is reminding more Americans daily of the importance of our precious civil liberties and how much more strongly they must be preserved and protected in times of war.

I voted in favor of the Patriot Act with great reservation at the outset, and my reservations have only increased over time. Seeing little evidence that it has increased our security, I expect to oppose any effort to extend those provisions of the current Patriot Act that will expire next year and I will most certainly oppose any effort to strengthen and extend the reach of the Patriot Act with new provisions that facilitate incursions into and violations of the fundamental civil and constitutional rights of our citizens and other legal residents in America, including proposals to revoke citizenship of people who are thought to give material aid to terrorists. The police and prosecution powers of the government are important and necessary to preserving life, liberty, and the pursuit of happiness, but they are also the most fearsome powers of government.

LEADERS OF TAIWAN'S LEGISLATIVE BRANCH BRIEF CONGRESSIONAL LEADERS IN CAPITOL

HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. CHABOT. Mr. Speaker, earlier today Members were honored to be joined by a bipartisan delegation of colleagues from the legislative branch of Taiwan, one of the world's most vibrant democracies. In an event hosted by the Congressional Taiwan Caucus here in the Capitol, President Wang and leaders from the Defense and Foreign Affairs committees of the Legislative Yuan briefed Members on important security, economic and health issues of mutual concern. I greatly welcome such direct exchanges and look forward to more such opportunities in the future.

I commend to my colleagues' attention the impressively candid observations of the leadership of Taiwan's delegation:

PREPARED REMARKS, HONORABLE WANG JIN-PYNG, PRESIDENT LEGISLATIVE YUAN

Members of the Congressional Leadership, Mr. Chairman, Members of the Taiwan Caucus of the United States Congress, it is a distinct privilege and honor to be here in this cradle of democracy with you today.

On behalf of the members of my traveling party of fellow Parliamentarians from your brother democracy in Taipei, permit me to thank you for your time, your interest, and your enduring friendship.

This building, targeted by terrorists, is revered by all citizens of Taiwan. It stands as a beacon for our national cause, for those who believe in the right of all people on this planet to choose their own form of government.

On behalf of the freely elected President of Taiwan, I bring you greetings.

President Chen Shui Bian has asked me to express to you his personal appreciation for the strong support shown by this Caucus—by this entire Congress—for building a strong Taiwan. He particularly asked me to thank you for supporting our efforts to maintain a robust defense. By approving sales of appropriate arms to Taiwan, you aid our ability to deter attack and to provide security for peoples throughout our region. By increasing confidence in our self-defense capabilities, you have helped provide stability in Asia.

Taiwan is moving forward deliberately to secure the resources for our prudent defense procurement program. We deeply appreciate your continued support and that of the Bush Administration.

As President of the Legislative Yuan, the 'congress' in Taiwan, I am honored to represent some twenty three million citizens. On their behalf, I thank you for the support of this Congress—support that has time and again proven essential if we are to continue to live in an open, free and democratic society. Please continue this support—which has brought political liberty, economic freedom

and a vigorous (I can assure you!), a vigorous and energetic free press for Taiwan!

In our Legislative Yuan we have four major parties and one independent group. You will be 'shocked' to know we sometimes quarrel, we shout, we argue, we debate into the night. But on matters concerning the mutual interests of the free people of Taiwan and the United States, we—like you—stand firmly united.

I pledge that we will continue to do all in our power to strengthen US-Taiwan ties and to advance mutual economic, diplomatic and security interests.

On two issues in particular I want to ask your help. Both concern our cousins across the Taiwan Strait, the People's Republic of China.

The people of Taiwan earnestly hope for a dialogue with the authorities in Beijing. We want to discuss matters of health. We want to discuss trade, security, transportation, improving people-to-people exchanges.

We have many issues of common interest to explore with the PRC. There is much we can learn from each other. There is much we can accomplish together. The peoples of the entire region desire peace and security, but there must be a mutual willingness for dialogue. So we ask our friends in the United States to use your important relationship with the authorities in Beijing. Encourage them to engage us in a dialogue unburdened by preconditions. It can only advance the interests of all concerned.

The second issue where we ask your help is in the area of health and Taiwan's international human rights.

Taiwan has weathered a terrible scourge in recent months as SARS swept the region. Lives have been lost. Livelihoods have been threatened. Commerce has been disrupted. People throughout the world have suffered from the PRC's cover-up of the SARS epidemic. At the same time the leaders in Beijing prevented Taiwan from receiving support from WHO, and other countries, by insisting that all assistance had to be approved and channeled through the PRC. Although the PRC could not handle its own problems with SARS it had the audacity to claim it was helping Taiwan, which did not receive anything.

Throughout this time, Taiwan has been seeking to participate in the programs of the World Health Organization. Not as a member state—we recognize that nomenclature would offend some in Beijing—but simply as an observer. Yet the stubborn rejection of our effort by the PRC—their international arm-twisting, bullying and threatening trade partners—has been shameful, a clear violation of Taiwan's international human rights. It is a crystal clear example for all to see of how a dictatorship places power politics above the interests of people—people on both sides of the Taiwan Strait who have suffered. Advice and support from the WHO did not arrive in time because of the PRC's interference. Health should not be a political issue used for gain and punishment. It is a life and death people issue and those who are chosen to govern must look to the people's interests first.

The fact is the SARS crisis will pass. But other health and economic challenges of an interdependent world will surely confront us. Taiwan can make its own contributions to the world's fight against disease, but it cannot be treated as a pariah. The time for the people of Taiwan to secure the benefits of international organizations, especially one as important as the WHO, has surely come. Taiwan's international human rights demand that its people should not be prevented from participating in international organizations and programs that will further their health and welfare and that of the world at large.

Under the landmark Taiwan Relations Act, the U.S. has pledged to work to benefit the welfare and human rights of the free people of Taiwan. I call upon you and your colleagues to hold hearings—consistent with this legislative requirement–on how the U.S. can advance Taiwan's health, human rights and security by pressing for Taiwan's inclusion in appropriate international organizations. We hope the American belief in fair play will encourage you to reach out to other friends and allies and urge their support for Taiwan's place in the community of international organizations.

Dear Friends, let me close with a personal note.

I have been honored by my colleagues and placed in a position of leadership in our national legislature. I have been honored by my president and asked to convey a message to our most important allies. Today, I have even been honored to work in that arsenal of democracy where the fighting forces of freedom are captained, the Pentagon.

But it is a signal honor of my career to be with you here today in the United States Capitol, truly the people's house, where the beacon of liberty shines forth for all around the globe to see.

Thank you so very much. May God bless you, and God bless the American people.

COMMENDING MRS. DEPOALA'S FIFTH GRADE CLASS ON THE CREATION OF THEIR PEACE QUILT

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. HINCHEY. Mr. Speaker, it is with great pleasure that I rise today to commend the children of Mrs. Sally DePoala's Fifth Grade class at Cahill Elementary School in Saugerties, New York for their contribution to the national dialogue in support of peace and hope. Last Friday I had the good fortune to spend some time with these young people and receive from them a Peace Quilt that they had spent a good part of the year creating. After reading an African folk tale earlier in the year, the students were inspired to create an artistic quilt that expressed their deeply held commitment to peace here in the United States of America and throughout the world. All of the students in the class contributed to the beautiful quilt and asked to present it to me so I may assist them in eventually having it displayed at a memorial for the World Trade Center in New York City.

The tragic events of September 11, 2001 have had a profound effect on the Nation and the world. Together, we have sought out ways to deal with the fear, anger and grief that struck us all on that fateful day. Indeed, we as a nation have come together to find strength in the masses and to recommit ourselves to our families, our communities and our country.

Mr. Speaker, I am very proud that the fifth grade students in Mrs. DePoala's class at Cahill Elementary decided to express themselves in this very thoughtful and traditional way. In a simple way, they have profoundly communicated the dream of our future generations to embrace peace and hope and to seek out strength from within our communities. I'm grateful to have been chosen as the messenger of the spirit of these young people and I will enthusiastically seek to have their wonderful Peace Quilt displayed prominently at the site where the world will remember the tragic events of September 11, 2001. In the meantime, I will proudly display this quilt in my Kingston district office so that our local community can appreciate this profound statement by our future generation.

HONORING THE ACCOMPLISHMENTS OF BRITTANY ATKINS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. GORDON. Mr. Speaker, I rise today to congratulate Brittany Amber Atkins of Smyrna, Tennessee, for being chosen as the National Exchange Club Youth of the Year.

Brittany recently graduated from Battle Ground Academy with a 4.1 GPA. Her list of accomplishments while in high school are long. Among the honors and awards Brittany has received are Tennessee District Youth of the Year for the National Exchange Club, Brentwood Exchange Club Youth of the Year, Helen and Ralph Brown School Spirit Award, Daughters of the American Revolution Good Citizen Award, President's Award for Outstanding Academic Excellence, Music Medal, Drama Medal and Harvard Book Award.

Brittany was also involved in a host of extracurricular activities, including Student Council, Leadership Council, Speech and Debate, plays, choirs, Students Against Destructive Decisions, Spanish Club, Key Club and Dance Team.

While her awards and extracurricular activities contributed to Brittany becoming the National Exchange Club Youth of the Year, I found her essay, ''America's Young Patriots: Believing and Achieving for a Better America,'' to be most impressive. She writes, ''America's future rests in the hearts, dreams, and preparations of these young patriots—no matter race, religion, place of residence, or economic status. It is through the beliefs and achievements of today's youth that America will thrive in the future.'' Brittany believes patriotism is found within the unlimited opportunities for one's education, profession and service to his or her community.

Brittany concludes her essay by pledging to ''concentrate on service before reward, to introduce problems with solutions, and when encountering conflict, to interject love and humor.'' I commend Brittany for her many accomplishments and awards, and wish her the best of luck in future endeavors.

CONGRATULATING JOE GUNN ON HIS RETIREMENT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. GREEN of Texas. Mr. Speaker, after 14 years as president of the Texas AFL–CIO, Joe Gunn has announced that he will retire. I rise today to congratulate Joe and to wish him well in his retirement.

Joe Gunn has actively served the workers of the State of Texas for many years.

He went to work for Southwestern Bell in 1949 and joined the Communications Workers of America, Local 6222 on the same day. During his 22 years with Southwestern Bell, Joe spent 11 years in full-time service to Local 6222.

Joe ran for job steward and was easily elected. Within a very short time, he ran for Chief Steward and was again elected. Always looking for more challenges, Joe ran for and was elected first as a vice president and then as president of Local 6222. That is when I met Joe in 1972.

In a short time, Joe was elected and served as a vice president and as the president of the Harris County AFL–CIO.

In January, 1979, Joe was elected as the secretary-treasurer of the Texas AFL–CIO. He served in this capacity until his election as president on July 29, 1989.

But Joe's life has involved more than the CWA or the AFL–CIO. Joe also served for seven years as a Commissioner on the Texas Employment Commission, the precursor to the Texas Workforce Commission. He was first appointed to this position by former Governor Dolph Briscoe.

He has also served his community by holding such positions as vice president of the Harris County United Way, the Houston Council Boy Scouts Executive Council,and youth director of his church.

Joe is married to Dorothy Ann Taylor Gunn. They have ten children, six of which were foster children. He and his wife attend the United Methodist Church in Austin.

Joe Gunn never forgot that his purpose was to improve the working conditions of all Texans. He has always represented workers and has worked tirelessly for a safe workplace, fair pay and respect for all employees, union and non-union.

He is a legend and a force in Texas politics and will not be forgotten or easily replaced.

Mr. Speaker, I ask my colleagues to join me in thanking Joe Gunn for his many years of service and to wish him well in his retirement.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. SHAYS. Mr. Speaker, on June 23, I was participating in the World Economic Forum in Amman, Jordan with Congressman JIM KOLBE and other Members of the House and Senate. As a result, I missed four recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted yes on recorded vote number 297, yes on recorded vote number 298, yes on recorded vote number 299, and yes on recorded vote 300.

HONORING THE DISTINGUISHED PUBLIC SERVICE OF BILL JONES

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. GORDON. Mr. Speaker, I rise today to recognize the outstanding service of Murfreesboro, Tennessee, Police Commissioner Bill Jones, who will retire from his post on August 31 after 47 years of law enforcement work.

Bill Jones became the police commissioner in my hometown of Murfreesboro 16 years ago. Since then, he has initiated a number of programs that have bolstered law enforcement and enhanced the quality of life in Murfreesboro. My hometown has experienced tremendous growth during Bill's tenure as police commissioner. The police department has doubled in size, but more importantly, the expansion of the department has been an efficient one.

Bill started his career in law enforcement as a Tennessee state trooper shortly after returning home from service in the United States Navy during the Korean conflict. Bill rose through the ranks of the Tennessee Highway Patrol before finally leading the organization as its safety commissioner.

After nearly half a century in law enforcement, Bill has decided to remove the badge and enjoy his family without any distractions. The community of Murfreesboro, as well as the state of Tennessee, has been served well and with distinction by Commissioner Jones. I congratulate him for his tireless, dedicated service to law enforcement and wish him well in his retirement.

EXPRESSING SYMPATHY FOR VICTIMS OF ALGERIAN EARTHQUAKE

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. PITTS. Mr. Speaker, I stand in strong support of H. Res. 264 expressing sympathy for the victims of the devastating earthquake in Algeria on May 21, 2003.

Natural disasters, such as earthquakes, can wreak havoc in a community or nation.

At times like these, it is vital to come to the support and aid of our friends.

I am pleased that our nation has assisted the Algerians in the emergency phase of their response to the earthquake and I encourage our government to support the Algerians as they seek to rebuild their homes and communities.

Algeria is an important partner and friend of the United States in many respects, not the least of which is in the war against terror—the Algerians have experienced the horrors of terrorism in their own land for many years.

I urge my colleagues to support this resolution.

TRIBUTE TO PUEBLO COMMUNITY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress today to recognize an academic institution that has served Pueblo, Colorado for the last 70 years. Pueblo Community College (PCC) has maintained its focus on quality education over the course of a lifetime as it has expanded to meet the state's needs. As we reflect upon this 70th anniversary, I commend Pueblo Community College for the positive impact that it has had upon individuals and families throughout the State of Colorado.

Pueblo Community College traces its origins back to the incorporation of Southern Colorado Junior College in 1933. Since the original graduating class of 17 in 1935, enrollment at PCC has increased enough to warrant expanding to three additional campuses in Cañon City, Durango, and Cortez. The total enrollment in PCC now exceeds 5,000 students, all of whom value PCC's affordability, flexible hours, and varied degree programs.

More than half of Pueblo Community College's students are employed and would not have access to higher education if not for the flexibility offered by Pueblo Community College. Students at PCC have the opportunity to work toward Certificates of Completion, Associate of Science, Associate of Arts, Associate of General Studies, and Associate of Applied Science degrees. The assortment of programs allows first-time college students and working adults alike the opportunity for a brighter future.

Mr. Speaker, I am honored to pay tribute to Pueblo Community College before this body of Congress and this nation. PCC provides many Coloradans access to higher education and the skills necessary for a successful career. I congratulate Pueblo Community College on its success and commend the institution for the positive impact that it has made upon Colorado's citizens for the past 70 years.

PERSONAL EXPLANATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. POMEROY. Mr. Speaker, on June 23, 2003, due to flight delays, I missed rollcall votes Nos. 297, 298, 299, and 300. Had I been present, I would have voted ''yea'' on all four votes.

IN REGARD TO MR. CHARLES MULCAHY

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. KIND. Mr. Speaker, I rise today to commend Wisconsin native Mr. Charles Mulcahy for his nomination by HM King Albert II of Belgium to become a Knight in the Order of Leopold.

Mr. Mulcahy has served with distinction as Honorary Consul of Belgium since 1985. He has provided guidance to the development of bilateral economic, commercial, cultural, scientific and educational relations, assisted Belgian citizens, and promoted Belgian interests over the past 15 years.

Mr. Mulcahy has been an active participant in business and economic development matters for over 25 years. He is a senior partner with the law firm of Whyte Hirschboeck Dudek in Milwaukee, Wisconsin, and is known for his

representation of commercial business concerns, from initial organizations, capital formation, developing strategic alliances and joint ventures between Wisconsin companies and overseas business interests. He has guided numerous companies through various growth and development phases involved in building a business. He has worked closely with businesses on their legal matters, including negotiating distributor agreements and establishing subsidiary or branch operations for clients throughout the United States, Europe and Asia, and serves on the Board of many companies engaged in international trade.

Mr. Mulcahy's leadership in the area of world trade is reflected in his role as founder of the Wisconsin World Trade Center (WWTC) in 1987. He served as the initial President of WWTC and continues to serve as a member of the Executive Committee and the Board of Directors. Mr. Mulcahy is past president of the Milwaukee World Trade Association and is also past chairman of the Advisory Committee of the Institute of World Affairs of the University of Wisconsin-Milwaukee.

Mr. Mulcahy's record of service to Wisconsin businesses and to the Belgian of is distinguished and worthy of praise. His nomination to become a Knight in the Order of Leopold is truly deserved.

IN HONOR OF THE 100TH ANNIVERSARY OF THE SOUTH HAVEN LIGHTHOUSE

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. UPTON. Mr. Speaker, I rise today to recognize the centennial of one of southwest Michigan's most famous landmarks: the three-story red lighthouse located in the beautiful community of South Haven. Artifacts such as this lighthouse are of tremendous historical value. These symbols of our heritage stand as a remembrance for generations to come. This 11-foot wide, 36-foot tall structure was constructed in 1903. Its red-case iron structure has always been one of its defining characteristics, making it easily identifiable to lighthouse enthusiasts and area historians. In fact, a new book has been published by the Michigan Maritime Museum depicting history of this lighthouse in honor of its 100th anniversary. As all folks who live, work, or grew up on the shores of Lake Michigan know, lighthouses provide an invaluable service to communities and commerce of the Great Lakes. I am proud that the South Haven lighthouse has reached its 100th anniversary and I am hopeful that it will survive 100 years more.

TRIBUTE TO DANNY GALLACHER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to honor the life of Danny Gallacher who recently passed away. A longtime resident of Glenwood Springs, Colorado, Danny made significant contributions to his community as a leader and role model for others.

Danny and Mary raised four boys, eventually enlisting their help in running a number of family business ventures, which included a service station and a diner that eventually became a full-service restaurant and bar. One of Danny's major contributions to his community was his service as a counselor at the drug and alcohol detoxification center he helped establish.

Mr. Speaker, it is with profound sadness that I recognize the life and passing of Danny Gallacher. Danny will be especially missed by his family, friends, and the many people who knew him in the Glenwood Springs community. My thoughts and prayers are with them during this difficult time.

TRIBUTE TO BOB STUMP

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. SMITH of New Jersey. Mr. Speaker, I am deeply saddened by the loss of a former colleague, friend, and mentor, the Honorable Bob Stump of Arizona. My thoughts and prayers are with his wife Nancy, his children, Karen, Hoot, and Bruce, as well as his grandchildren, other family members and friends who loved him.

From his enlistment in the Navy during World War II at the age of 16, to his extraordinary leadership as chairman of the Veterans' Affairs and Armed Services Committees in the House of Representatives, Bob Stump was a true American hero.

Bob Stump served with distinction in Congress for 26 years, including 6 years as chairman of the Committee on Veterans' Affairs, and 2 years as chairman of the committee on Armed Services. Chairman Stump used his influence to promote responsible legislation to assist and honor our nation's veterans.

Under Bob Stump's leadership, Congress increased funding for veterans health care; expanded access to long term care for aging veterans, including nonhospital alternative care; reformed eligibility standards for access to VA health care; extended the national cemetery system, including Arlington National Cemetery; increased assistance to disabled veterans and their survivors; and strengthened the Montgomery GI Bill that has helped millions of veterans fulfill their educational and career goals.

A modest man who preferred to shun the spotlight, Bob Stump's life and his legacy will continue to shine brightly for generations of service men and women to come.

Mr. Speaker, Bob Stump was the chairman of the Committee on Veterans' Affairs from 1995–2000, and its ranking minority member for the 2 previous years. He served as a member of the Committee for a total of 14 years. During his tenure as chairman, he compiled a distinguished record of legislation that is a major part of his legacy of public service. As his successor as chairman of the Veterans' Affairs Committee, I particularly know and appreciate all that he did for our Nation's veterans, servicemembers and their families by working on a bipartisan basis in cooperation with veterans' service organizations. I want to take this opportunity to recall the major veterans' legislation he authored, because Bob Stump was not one to trumpet his accomplishments.

In 1996, Chairman Stump initiated and Congress passed important health care eligibility reforms for veterans that removed barriers to outpatient care and allowed greater flexibility to the Department of Veterans Affairs (VA) in paying for care closer to veterans' homes. The savings generated by shifting away from inpatient care and budget increases Bob supported were used to increase ambulatory care visits in fiscal year 2000 to more than 40 million total outpatient visits nationwide, an increase of 5.3 million outpatient visits per year over 1997. As a result of this legislation, the VA established hundreds of new community-based outpatient clinics throughout the Nation to improve veterans' access to health care.

In 1998, Bob Stump initiated and Congress passed the largest benefits expansion for veterans since the Persian Gulf war, including: allowing spouses of veterans who died from a service-connected disability to resume receiving assistance under the Dependency and Indemnity Compensation program if their subsequent remarriage ended; increasing adaptive housing and automobile allowances; increasing the monthly pension benefit for disabled veterans in need of the full time aid and attendance of another person by $600 per year; and increasing the monthly Montgomery GI Bill payment from $440 to $528, a 20-percent increase.

Then in 2000, our former chairman initiated and Congress passed the landmark Veterans Millennium Health Care and Benefits Act, popularly known by many veterans as the Millennium Act, the most comprehensive benefits improvement legislation in decades. Some of its more significant provisions included: mandating nursing home and long-term care for seriously disabled veterans; allowing the VA to pay for emergency care for veterans lacking access to other health care plans; improving priority health care access for Purple Heart recipients and military retirees; improving benefits for surviving spouses of disabled veterans; and increasing programs providing employment and housing assistance to homeless veterans.

Also, Bob Stump greatly appreciated the value of education, and initiated Montgomery GI Bill benefits enhancements that increased the value of the monthly education benefit for veterans by nearly $100 per month to $650. The resulting 4-year total basic benefit of $23,400 for a full-time student at a 4-year institution in the year 2000 was almost 50 percent higher than it was in 1997. This law also contained provisions that allowed servicemembers to contribute more up front to achieve an $800 per month benefit, and it provided active duty servicemembers a new opportunity to convert their post-Vietnam Era Veterans Educational Assistance Program benefits to the Montgomery GI Bill if they had not done so before or had withdrawn all the funds from their VEAP accounts.

Bob Stump had a particular interest in the national cemetery system, and worked for its expansion. Thanks to his efforts while he was chairman, five new national veterans' cemeteries were opened, adding approximately 835,000 gravesites to our national cemetery capacity. Additionally, legislation he sponsored was enacted to require the VA to plan 6 new

national cemeteries in Atlanta, Miami, Pittsburgh, Oklahoma, Sacramento, and Detroit. He also authorized legislation to expand the boundaries of Arlington National Cemetery, extending its useful life beyond the projected closing date of 2025 so that in-ground burials of veterans can continue until approximately the year 2041.

Mr. Speaker, this impressive record of legislative accomplishment has resulted in immeasurable good for veterans, servicemembers and their families. Bob Stump's leadership was the strongest kind—leadership by example. His lifetime of service to America left this country a better place, and I am honored to have served in the House with our departed colleague, Bob Stump.

MR. STUMP, IT WAS AN HONOR TO KNOW YOU

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. MILLER of Florida. Mr. Speaker, I rise this evening to honor a great American, a great Congressman and my friend, Mr. Bob Stump of Arizona.

Like my colleagues, my memories of Bob reflect an honest individual, and as true as the day is long. His departure last year was difficult, his death—sad.

I first met Mr. Stump when I was running for Congress. My predecessor brought me around to show me the Committee on Armed Services and to meet those I hoped would be my colleagues.

Bob, the chairman of the Armed Services, took a few minutes to visit, shared a few thoughts on his experience in Congress and we snapped a photo. It's kind of funny now, but that picture was used in my campaign brochure. One of my opponents was outraged that I would use the photo. He managed to call Chairman Stump, making him aware of the photo. He further asked Bob if he had endorsed me. Put in the corner, asked to judge me by the few minutes we visited or to judge my opponent by the call he was now taking, Mr. Stump told my opponent yes, yes he would endorse me.

Of course we laughed about that story a couple of times but we always had plenty to talk about. Both Mr. Stump and my family were cotton farmers. We would talk about farming methods, the weather, a very easy give and take.

Every Thursday, at the prayer breakfast, Mr. Stump would be there in his western suit, boots and a smile, pouring coffee. Not a cup in the house was dry with Bob around. It was his job; it was something he wanted to do, he was a public servant.

I am fortunate to have known Bob Stump. I was fortunate to serve under his chairmanship on Armed Services and to now serve under his portrait in both the Veterans' Affairs Committee and the Armed Services Committee. It is as if he is always looking over my shoulder, making sure my decisions are the right ones.

Mr. Stump's commitment to the warfighter is to be emulated. He was a shining example of a statesman and a fantastic public servant. A good man has left this Earth and we are going to miss him. I honestly believe that the House of Representatives, the institution and this country is better today due to Bob Stump's efforts. It was an honor to know you, Mr. Chairman.

TRIBUTE TO THE LATE CONGRESSMAN BOB STUMP

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2003

Mr. EVERETT. Mr. Speaker, it is with great sadness that I learned of the passing of recently-retired Arizona Congressman Bob Stump. Bob was not only a senior statesman and a great patriot, but he was a good friend.

Bob was tough and hard working, always willing to do more than his share. The day after his sixteenth birthday, he enlisted in the Navy and later joined American forces in the World War II liberation of the Philippines and the invasion of Iwo Jima and Okinawa. After the war, he came home to attend Arizona State University and try his hand at cotton farming. His work ethic and humble nature served him well in politics.

Bob's long and distinguished career of public service spanned 40 years beginning with the Arizona State House of Representatives and Senate and ending as a senior member of the U.S. House of Representatives.

Despite becoming the ''dean'' of Arizona congressional delegation and chairing the House Veterans' Affairs and Armed Services Committees, Bob preferred a low-key style. He was often seen opening constituent mail and answering the phone.

Nevertheless, Bob was effective. No member of the House Armed Services Committee could have performed as well as he in shepherding critical funding increases for our military after nearly a decade of neglect by the Clinton Administration. The 2003 defense budget appropriately bore his name: ''The Bob Stump National Defense Authorization Act.''

One of the highlights of my career was serving as the chairman of the House Veterans' Affairs subcommittee on Oversight and Investigations while Bob was full chairman of the House VA Committee. Under his watch, we made great strides in overseeing the protection and well-being of the nation's 26 million veterans.

Bob was not afraid to take a stand when he knew it was in the nation's best interest. I'm reminded of the time he took to the floor to sternly defend the American flag in the face of court protection of desecration. ''Anyone who burns a flag will have to deal with me,'' he warned.

As someone who regularly joined Bob for dinner, I was aware that he was suffering health problems which led to his retirement decision last year. I, and many others in the House, will miss his friendship. My condolences go out to Bob's family, friends, and former constituents.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S8385–S8478

Measures Introduced: Eleven bills and two resolutions were introduced, as follows: S. 1316–1326, and S. Res. 181–182. **Pages S8438–39**

Measures Reported:

S. 312, to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program. (S. Rept. No. 108–78) **Page S8438**

Prescription Drug and Medicare Improvement Act: Senate continued 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 S8386–S8426, S8429–31**

Adopted:

Bingaman Modified Amendment No. 984, to require the Medicare Payment Advisory Commission to conduct a study regarding disproportionate share hospital payments under the Medicare program. **Page S8396**

By 93 yeas to 3 nays (Vote No. 237), 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 S8408**

Rejected:

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. (By 52 yeas to 43 nays (Vote No. 233), Senate tabled the amendment.) **Pages S8393, S8394–96**

Baucus (for Dodd) Amendment No. 969, to permit continuous open enrollment and disenrollment in Medicare Prescription Drug plans and Medicare Advantage plans until 2008. (By 55 yeas to 42 nays (Vote No. 234), Senate tabled the amendment.) **Pages S8401–03**

Pryor Amendment No. 981, to provide equal access to competitive global prescription medicine prices for American purchasers. (By 66 yeas to 31 nays (Vote No. 235), Senate tabled the amendment.) **Page S8403**

Boxer/Mikulski Amendment No. 1001, to eliminate the coverage gap. (By 54 yeas to 42 nays (Vote No. 236), Senate tabled the amendment.) **Pages S8386–90, S8392–93, S8403–04**

Lincoln Amendment No. 1002, to allow Medicare beneficiaries who are enrolled in fallback plans to remain in such plans for two years by requiring the same contracting cycle for fallback plans as Medicare Prescription Drug plans. (By 51 yeas to 45 nays (Vote No. 238), Senate tabled the amendment.) **Pages S8390–92, S8393–94, S8408–09**

By 41 yeas to 54 nays (Vote No. 239), Lautenberg Amendment No. 982, to make prescription drug coverage available beginning on July 1, 2004. **Pages S8405–10**

By 41 yeas to 54 nays (Vote No. 240), 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. **Pages S8412–14**

By 41 yeas to 55 yeas (Vote No. 241), Dodd Amendment No. 998, to modify the amount of the direct subsidy to be provided to qualified retiree prescription drug plans. **Pages S8410–12, S8414–15**

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 S8386**

Kerry Amendment No. 958, to increase the availability of discounted prescription drugs. **Page S8386**

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 S8386**

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 S8386**

Lincoln Amendment No. 959, to establish a demonstration project for direct access to physical therapy services under the Medicare program. **Page S8386**

Baucus (for Jeffords) Amendment No. 964, to include coverage for tobacco cessation products. **Page S8386**

Baucus (for Jeffords) Amendment No. 965, to establish a Council for Technology and Innovation. **Page S8386**

Nelson (FL) Amendment No. 938, to provide for a study and report on the propagation of concierge care. **Page S8386**

Nelson (FL) Amendment No. 936, to provide for an extension of the demonstration for ESRD managed care. **Page S8386**

Baucus (for Harkin) Amendment No. 967, to provide improved payment for certain mammography services. **Page S8386**

Baucus (for Harkin) Amendment No. 968, to restore reimbursement for total body orthotic management for nonambulatory, severely disabled nursing home residents. **Page S8386**

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 S8386**

Rockefeller Amendment No. 975, to make all Medicare beneficiaries eligible for Medicare prescription drug coverage. **Page S8386**

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. **Page S8386**

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. **Page S8386**

Bingaman Amendment No. 972, to provide reimbursement for Federally qualified health centers participating in medicare managed care. **Page S8386**

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 S8386**

Baucus (for Edwards) Modified Amendment No. 985, to strengthen protections for consumers against misleading direct-to-consumer drug advertising. **Pages S8386, S8423–24**

Baucus (for Lautenberg) Amendment No. 986, to make prescription drug coverage available beginning on July 1, 2004. **Page S8386**

Murray Amendment No. 990, to make improvements in the MedicareAdvantage benchmark determinations. **Page S8386**

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. **Page S8386**

Dayton Amendment No. 960, to require a streamlining of the Medicare regulations. **Page S8386**

Dayton Amendment No. 977, to require that benefits be made available under part D on January 1, 2004. **Page S8386**

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 S8386**

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 S8386**

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. **Page S8386, S8430–31**

Durbin Amendment No. 994, to deliver a meaningful benefit and lower prescription drug prices. **Page S8386**

Smith/Bingaman Amendment No. 962, to provide reimbursement for Federally qualified health centers participating in Medicare managed care. **Pages S8396–S8400**

Hutchison Amendment No. 1004, to amend title XVIII of the Social Security Act to freeze the indirect medical education adjustment percentage under the Medicare program at 6.5 percent. **Pages S8400–01**

Sessions Amendment No. 1011, to express the sense of the Senate that the Committee on Finance should hold hearings regarding permitting States to provide health benefits to legal immigrants under Medicaid and SCHIP as part of the reauthorization of the temporary assistance for needy families program. **Pages S8404–05, S8424–26**

Sununu Amendment No. 1010, to improve outpatient vision services under part B of the Medicare program. Page S8407

Conrad Amendment No. 1019, to provide for coverage of self-injected biologicals under part B of the Medicare program until Medicare Prescription Drug plans are available. Pages S8415, S8417–18

Conrad Amendment No. 1020, to permanently and fully equalize the standardized payment rate beginning in fiscal year 2004. Pages S8415–16, S8417

Conrad Amendment No. 1021, to address Medicare payment inequities. Pages S8416–17

Clinton Amendment No. 1000, to study the comparative effectiveness and safety of important Medicare covered drugs to ensure that consumers can make meaningful comparisons about the quality and efficacy. Pages S8418–21, S8422–23

Clinton Amendment No. 999, to provide for the development of quality indicators for the priority areas of the Institute of Medicine, for the standardization of quality indicators for Federal agencies, and for the establishment of a demonstration program for the reporting of health care quality data at the community level. Pages S8418–19

Clinton Amendment No. 953, to provide training to long-term care ombudsman. Pages S8421–22

Clinton Amendment No. 954, to require the Secretary of Health and Human Services to develop literacy standards for informational materials, particularly drug information. Page S8422

Reid (for Boxer) Amendment No. 1036, to eliminate the coverage gap for individuals with cancer. Page S8424

Reid (for Corzine) Amendment No. 1037, to permit Medicare beneficiaries to use Federally qualified health centers to fill their prescriptions. Page S8424

Reid (for Jeffords) Amendment No. 1038, to improve the critical access hospital program. Page S8424

Reid (for Inouye) Amendment No. 1039, 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. Page S8424

A unanimous-consent agreement was reached providing that at 10 a.m., on Wednesday, June 25, 2003, with the approval of both the Majority Leader and the Democratic Leader, Senate proceed to vote on or in relation to an amendment by Senator Grassley or his designee regarding the benchmark, and that no amendment be in order to the amendment prior to the vote. Page S8478

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Wednesday, June 25, 2003. Page S8478

Messages From the House: Page S8436

Measures Referred: Page S8436

Measures Read First Time: Page S8478

Enrolled Bills Presented: Page S8437

Executive Communications: Pages S8437–38

Additional Cosponsors: Pages S8439–41

Statements on Introduced Bills/Resolutions: Pages S8441–45

Additional Statements: Pages S8435–36

Amendments Submitted: Pages S8445–76

Notices of Hearings/Meetings: Page S8476

Authority for Committees to Meet: Pages S8476–78

Privilege of the Floor: Page S8478

Record Votes: Nine record votes were taken today. (Total—241) Pages S8395–96, S8402–03, S8404, S8408–09, S8414–15

Adjournment: Senate met at 9:30 a.m., and adjourned at 9:13 p.m., until 9:30 a.m., on Wednesday, June 25, 2003. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S8478.)

Committee Meetings

(Committees not listed did not meet)

SUPPORTING OUR MILITARY FAMILIES

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families concluded joint hearings with the Committee on Armed Services' Subcommittee on Personnel to examine challenges facing military families, focusing on the Reserve component family readiness and support programs, employer support, and reunion and readjustment policies, after receiving testimony from John M. Molino, Deputy Under Secretary for Military Community and Family Policy, Joseph D. Tafoya, Director, Education Activity, Colonel James L. Scott II, Director, Individual and Family Support Policy, Office of the Assistant Secretary for Reserve Affairs (Manpower and Personnel), and M.A. Lucas, Director, Army Child and Youth Services, all of the Department of Defense; Michael J. Petrilli, Associate Deputy Under Secretary of Education for Innovation and Improvement; Shelley M. MacDermid, Purdue University Military Family Research Institute, West Lafayette, Indiana; and Joyce Wessel Raezer, National Military Family Association, Alexandria, Virginia.

RAPID TRANSIT: BUS SERVICE

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings to examine bus rapid

transit and other bus service innovations, focusing on funding sources, flexible mass transit options, capital and operating costs, after receiving testimony from Jennifer L. Dorn, Administrator, Federal Transit Administration, Department of Transportation; JayEtta Hecker, Director, Physical Infrastructure Issues, General Accounting Office; Kenneth P. Hamm, Lane Transit District, Eugene, Oregon; Gary L. Brosch, University of South Florida National Bus Rapid Transit Institute, Tampa; Oscar Edmundo Diaz, New York University Center for Latin American and Caribbean Studies, New York; and Anne Canby, Surface Transportation Policy Project, Washington, D.C.

UNITED STATES OLYMPIC COMMITTEE

Committee on Commerce, Science, and Transportation: Committee concluded hearings on reform of the United States Olympic Committee, after receiving testimony from Donald Fehr, Major League Baseball Players Association, Dick Ebersol, NBC Sports and Olympics, Harvey W. Schiller, Assante U.S., all of New York, New York, Roberta Cooper Ramo, Modrall Sperling, Albuquerque, New Mexico, and Donna de Varona, Greenwich, Connecticut, all on behalf of the U.S. Olympic Committee Independent Commission; Robert Balk, Long Beach, California, and Rachel Mayer Godino, Needham, Massachusetts, both on behalf of the USOC Athletes' Advisory Council; Robert Marbut, USOC National Governing Bodies' Council, San Antonio, Texas; Jim Scherr, United States Olympic Committee, Colorado Springs, Colorado; and Bill Stapleton, Capital Sports and Entertainment, Austin, Texas.

LABORATORY MANAGEMENT

Committee on Energy and Natural Resources: Committee began hearings on improved understanding of the governance of the Department of Energy laboratories and approaches to optimize the capability of those laboratories to respond to national needs, receiving testimony from John Peoples, Jr., Fermi National Accelerator Laboratory, Batavia, Illinois; Siegfried S. Hecker, Los Alamos National Laboratory, Los Alamos, New Mexico; Martha Krebs, Science Strategies, Los Angeles, California; and Herman Postma, Oak Ridge, Tennessee.

Hearings recessed subject to call.

COLUMBIA RIVER BASIN POWER SYSTEM

Committee on Environment and Public Works: Committee concluded 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 Basin Power System, after receiving testimony from D. Robert Lohn, Regional Administrator, Northwest Region, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; Stephen J. Wright, Administrator, Bonneville Power Administration, Department of Energy; J. William McDonald, Regional Director, Pacific Northwest Region, Bureau of Reclamation, Department of the Interior; Colonel Dale Knieriemen, Deputy Commander, Northwestern Division, U.S. Army Corps of Engineers; Michael L. Bogert, Counsel to Governor of Idaho, Boise; Judi Danielson, Northwest Power Planning Council, and Steven Huffaker, Columbia River Fish and Wildlife Authority, both of Portland, Oregon; Anthony D. Johnson, Nez Perce Tribe, Lapwai, Idaho; and Nancy Murillo, Shoshone-Bannock Tribes, Fort Hall, Idaho.

TECHNOLOGY ISSUES WITH EUROPE

Committee on Foreign Relations: Subcommittee on European Affairs concluded hearings to examine U.S. relations with respect to a changing Europe, focusing on differing views on technology issues, the highly-integrated United States-European Union marketplace, and U.S./EU regulatory coordination, after receiving testimony from Gary Litman, U.S. Chamber of Commerce, Fred Yoder, National Corn Growers Association, Karen Myers, United States Council on International Business, and Jean Halloran, Consumers Union, all of Washington, D.C.; and Harris N. Miller, Information Technology Association of America, Arlington, Virginia.

JUVENILE DIABETES

Committee on Governmental Affairs: Committee concluded hearings to examine issues relative to controlling juvenile diabetes, focusing on the personal toll on families, financial costs to the Federal Health Care System, and research progress toward a cure, and related provisions of S. 518, 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, after receiving testimony from Allen M. Spiegel, Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Department of Health and Human Services; Bernhard J. Hering, University of Minnesota, Minneapolis; Mary Tyler Moore, New York, New York, on behalf of the Juvenile Diabetes Research Foundation International; Colleen Rea, Stamford, Connecticut; Sophia Cygnarowicz, Columbia, Illinois; Katie Halasz, Wells, Maine; Eric Bonness and Alex Bonness, both of Omaha, Nebraska; LaNiece Evans-Scott, Backlick, Ohio; and Anne Seidel, Dallas, Texas.

BUSINESS MEETING

Committee on the Judiciary: Committee resumed markup of S. 1125, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, but did not complete action thereon, and will meet again on Thursday, June 26.

Committee on Rules and Administration: Committee ordered favorably reported the following business items:

S. 148, to provide for the Secretary of Homeland Security to be included in the line of Presidential succession;

S. Res. 178, to prohibit Members of the Senate and other persons from removing art and historic objects from the Senate wing of the Capitol and Senate office buildings for personal use; and

S. Res. 138, to amend rule XXII of the Standing Rules of the Senate relating to the consideration of nominations requiring the advice and consent of the Senate.

House of Representatives

Chamber Action

Measures Introduced: 26 public bills, H.R. 2569–2594; and; 6 resolutions, H.J. Res. 61; H. Con. Res., 227–229 and H. Res. 294 and 296, were introduced. **Pages H5813–14**

Additional Cosponsors: **Pages H5814–15**

Reports Filed: Reports were filed today as follows:

H. Res. 295, providing for consideration 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 (H. Rept. 108-176). **Page H5813**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Boozman to act as Speaker Pro Tempore for today. **Page H5717**

Recess: The House recessed at 9:11 a.m. and reconvened at 10 a.m. **Page H5718**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Small Business Advocacy Improvement: H.R. 1772, amended, to improve small business advocacy; **Pages H5720–24**

Premier Certified Lenders Program Improvement: H.R. 923, amended, to amend the Small Business Investment Act of 1958 to allow certain premier certified lenders to elect to maintain an alternative loss reserve (agreed to by 2/3 yea-and-nay vote of 416 yeas to 3 nays, Roll No. 303); **Pages H5724–27, H5742–43**

Veterans Entrepreneurship and Benefits Improvement Act: Debated on June 23, 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 (agreed to by 2/3 yea-and-nay vote of 421 yeas with none voting "nay," Roll No. 304). Agreed to amend the title so as to read: "A bill to amend title 38, United States Code, to improve education and entrepreneurship benefits, housing benefits, and certain other benefits for veterans."; and **Pages H5743–44**

Homeland Security Technical Corrections: H.R. 1416, amended, to make technical corrections to the Homeland Security Act of 2002 (agreed to by 2/3 yea-and-nay vote of 415 yeas with none voting "nay", Roll No. 311). **Pages H5727–33, H5795–96**

Department of Homeland Security Appropriations Act: The House passed H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, by yea-and-nay vote of 425 yeas to 2 nays, Roll No. 310. **Pages H5734–95**

Agreed To:

Terry amendment that sought to increase funding for first responders by $20 million with $10 million for grants to State and local law enforcement for terrorism prevention activities and $10 million for firefighter assistance grants with offsets of $20 million from the Transportation Security Administration; **Pages H5761–64**

Hayes amendment that prohibits that any funding to be used in contravention of the applicable provisions of the Buy American Act; and **Page H5776**

Markey amendment that prohibits any funding to be used to approve, renew, or implement any aviation cargo security plan that permits the transporting of unscreened or uninspected cargo on passenger planes (agreed to by recorded vote of 278 ayes to 146 noes, Roll No. 308). **Pages H5776–79, H5790–91**

Rejected:

Filner amendment that sought to increase funding for Secure Electronic Network for Travelers Rapid Inspection (SENTRI) by $5 million to reduce the backlog of applications for the program with offsets from Departmental Administration Salaries and Expenses funding of $5 million (rejected by recorded vote of 149 ayes to 274 noes, Roll No. 307); and **Pages H5789–90**

Tancredo amendment that sought to prohibit any funding to States or localities that restrict information to the Bureau of Immigration and Customs regarding an individual's citizenship or immigration status as prohibited under section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (rejected by recorded vote of 102 ayes to 322 noes, Roll No. 309). **Pages H5791–95**

Withdrawn:

LoBiondo amendment no. 7 printed in the Congressional Record of June 23 was offered but subsequently withdrawn that sought to increase Coast Guard funding by $110 million with $35 million for review of vessel security plans and $75 million for deep water acquisition with $110 million offset from the Immigration and Customs enforcement, Transportation security Administration, Citizenship and Immigration Services, and Science and Technology Research, Development, Acquisition, and Operations; **Page H5759**

Maloney amendment no. 2 printed in the Congressional Record of June 23 was offered but subsequently withdrawn that sought to increase funding for discretionary grants for use in high-density urban areas and high threat areas by $300 million with offsets from Disaster Relief funding; **Pages H5764–66**

Brady amendment was offered but subsequently withdrawn that sought to increase funding for discretionary grants for use in high-density urban areas and high threat areas by $200 million with offsets from basic formula grants funding; **Pages H5766–76**

Jackson-Lee of Texas amendment was offered, but subsequently withdrawn that sought to simplify and expedite the grant process by allowing a percentage of funding be provided directly to localities and citizen groups without being first allocated to State government agencies; and **Pages H5781–83**

Jackson-Lee of Texas amendment was offered but subsequently withdrawn that sought to provide $3 million for a grant to the University of Texas Center for Biosecurity. **Pages H5786–89**

Point of Order Sustained Against:

Obey amendment that sought to increase funding for Coast Guard Port Facility Security Grants by $400 million, vessel threat information analysis by $100 million; container ship inspection by $100 million for 1300 inspectors; northern border security by $200 million; airport perimeter, cargo security and overseas aircraft maintenance security by $150 million and information analysis and infrastructure protection by $50 million offset by the tax reduction of taxpayers with adjusted gross incomes of $1 million by 5.66 percent. (Representative Obey appealed the ruling of the Chair and the Committee then agreed to sustain the ruling by recorded vote of 222 ayes to 200 noes, Roll No. 305); **Pages H5757–59**

Sec. 514, pertaining to fees for credentials or background checks; **Page H5758**

Sec. 521, pertaining to contracts with corporations reincorporated off shore; **Page H5758**

Sec. 522, pertaining to the prohibition of funding for the Computer Assisted Passenger Pre-Screening System (CAPPS2); **Page H5758**

Manzullo amendment no. 1 printed in the Congressional Record of June 23 that sought to prohibit the procurement of manufactured materials unless section 2 of the Buy American Act is applied by substituting ''at least 65 percent'' for ''substantially all''. (Representative Filner appealed the ruling of the Chair and the Committee then agreed to sustain the ruling by recorded vote of 385 ayes to 28 noes, Roll No. 306); **Pages H5779–81**

Baldwin amendment no. 6 printed in the Congressional Record that sought to prohibit any funding for 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; **Pages H5783–84**

Waters amendment that sought to require a review of the proposed project for construction of a remote passenger check-in facility at Los Angeles International Airport to determine whether the project as designed will protect the safety of air passengers and the general public; and **Pages H5784–85**

Tancredo amendment that sought to prohibit any funding to States or localities that restrict information to the Department of Homeland Security regarding an individual's citizenship or immigration status as prohibited under section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. **Pages H5785–86**

Agreed to H. Res. 293, the rule that providing for consideration of the bill was agreed to by recorded vote of 220 ayes to 197 noes, roll No. 302.

Earlier agreed to order the previous question by yea-and-nay vote of 221 yeas to 196 nays, Roll No. 301. **Pages H5741–42**

Senate Messages: Message received from the Senate appears on page H5718.

Referrals: S. 239 was referred to the Committee on Energy and Commerce and S. 1157 was referred to the Committees on House Administration and Transportation and Infrastructure. **Page H5811**

Amendment: Amendments ordered pursuant to the rule appear on pages H5815–17.

Quorum Calls—Votes: Five yea-and-nay votes and six recorded votes developed during the proceedings of the House today and appear on pages H5741–42, H5742, H5742–43, H5743–44, H5758–59, H5781, H5789–90, H5790–91, H5794, H5795, and H5796. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 12 midnight.

Committee Meetings

KC–767 TANKER LEASE INITIATIVE

Committee on Armed Services: Subcommittee on Projection Forces held a hearing on the KC–767 tanker lease initiative. Testimony was heard from the following officials of the Department of the Air Force: Lt. Gen. Michael E. Zettler, USAF, Deputy Chief of Staff, Installations and Logistics, Headquarters, U.S. Air Force; and Maj. Gen. Paul W. Essex, USAF, Director, Plans and Programs, Headquarters Air Mobility Command; and Neil P. Curtin, Director, Defense Capabilities and Management, GAO.

LABOR—MANAGEMENT REPORTING AND DISCLOSURE ACT—UNION DEMOCRACY REFORMS

Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a 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.'' Testimony was heard from Lary Yud, Deputy Director, Office of Labor-Management Standards, Employment Standards Administration, Department of Labor; and public witnesses.

GENERATION OF ELECTRICITY FROM COAL—FUTURE OPTIONS

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality held a hearing on ''Future Options for Generation of Electricity from Coal.'' Testimony was heard from George Rudins, Deputy Assistant Secretary, Coal and Power Systems, Department of Energy; and public witnesses.

IMPORTED, COUNTERFEIT, AND UNAPPROVED DRUGS AVALANCHE INTO U.S.

Committee on Energy and Commerce: Subcommittee on Oversight and Investigation held a hearing on ''A System Overwhelmed: The Avalanche of Imported, Counterfeit, and Unapproved Drugs into U.S.'' Testimony was heard from the following officials of the FDA, Department of Health and Human Services: William K. Hubbard, Associate Commissioner, Policy and Planning; and John Taylor, Associate Commissioner, Regulatory Affairs; Elizabeth Durant, Director, Trade Programs, Bureau of Customs and Border Protection, Department of Homeland Security; and the following officials of the State of Florida: Robert Penezic, Assistant Statewide Prosecutor; Gregg Jones, Pharmaceutical Program Manager, Drugs, Device, and Cosmetic Regulation and Cesar Arias, Drug Inspector Supervisor, both with the Bureau of Statewide Pharmaceutical Services, Department of Health.

FIGHTING IDENTIFY THEFT—ROLE OF FAIR CREDIT REPORTING ACT

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled ''Fighting Identity Theft—The Role of FCRA.'' Testimony was heard from J. Howard Beales III, Director, Bureau of Consumer Protection, FTC; Daniel L. Mihalko, Inspector in Charge, Congressional and Public Affairs, Postal Inspection Service, U.S. Postal Service; Tim Caddigan, Special Agent in Charge, Criminal Investigative Division, U.S. Secret Service, Department of Homeland Security; and public witnesses.

DISTRICT OF COLUMBIA—SCHOOL CHOICE

Committee on Government Reform: Held a hearing on ''School Choice in the District of Columbia: Opening Doors for Parents and Students.'' Testimony was heard from Representative Boehner; Rod Paige, Secretary of Education; and Anthony Williams, Mayor, District of Columbia.

EMERGING THREATS: ASSESSING NUCLEAR WEAPONS COMPLEX FACILITY SECURITY

Committee on Government Reform: Subcommittee on National Security, Emerging Threats and International Relations held a hearing on ''Emerging Threats: Assessing Nuclear Weapons Complex Facility Security.'' Testimony was heard from Robin M. Nazzaro, Director, Natural Resources and Environment, GAO; the following officials of the Department of Energy: Glenn S. Podonsky, Director, Office

of Oversight and Performance Assurance; Linton F. Brooks, Administrator, National Nuclear Security Administration; and Joseph S. Mahaley, Director, Office of Security; and public witnesses.

CYBER SECURITY

Committee on Government Reform: Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census held a hearing on ''Cyber Security: The Status of Information Security and the Effects of the Federal Information Security Management Act (FISMA) at Federal Agencies.'' Testimony was heard from Mark A. Forum, Administrator, Electronic Government and Information Technology, OMB; Robert F. Dacey, Director, Information Security Issues, GAO; Johnnie E. Frazier, Inspector General, Department of Commerce; Robert W. Cobb, Inspector General, NASA; Scott Charbo, Chief Information Officer, USDA; Drew Ladner, Chief Information Officer, Department of the Treasury; and Bruce Morrison, Acting Chief Information Officer, Department of State.

BOOSTING AFRICA'S AGRICULTURAL TRADE

Committee on International Relations: Subcommittee on Africa held a hearing on Boosting Africa's Agricultural Trade. Testimony was heard from public witnesses.

FEDERAL JUDICIARY—ARE ADDITIONAL JUDGES NEEDED?

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on ''The Federal Judiciary: Is There a Need for Additional Federal Judges?'' Testimony was heard from Dennis Jacobs, Judge, U.S. Court of Appeals, Second Circuit, State of New York; William O. Jenkins, Jr., Director, Homeland Security and Justice Issues, GAO; and a public witness.

OVERSIGHT—DEADLY CONSEQUENCES OF ILLEGAL ALIEN SMUGGLING

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims held an oversight hearing on ''The Deadly Consequences of Illegal Alien Smuggling.'' Testimony was heard from the following officials of the Department of Homeland Security: Jose Garza, Chief Patrol Agent, McAllen Sector, Border Patrol, Bureau of Customs and Border Protection; and Tom Homan, Interim Resident Agent in Charge, San Antonio, Texas, Bureau of Immigration and Customs Enforcement; and public witnesses.

OVERSIGHT—FEDERAL LANDS ABILITY TO MEET ENERGY NEEDS

Committee on Resources: Subcommittee on Energy and Mineral Resources held an oversight hearing on ''The Ability of Federal Lands to Meet our Energy Needs.'' Testimony was heard from Rebecca Watson, Assistant Secretary, Land and Minerals Management, Department of the Interior; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held a 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. Testimony was heard from Representative Pombo, Murtha and Jones of North Carolina; the following officials of the Department of the Interior: Dan Smith, Special Assistant to the Director, National Park Service; and Bob Anderson, Acting Assistant Director, Minerals, Realty and Resource Protection, Bureau of Land Management; and a public witness.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Water and Power held a 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. Testimony was heard from William Rinne, Deputy Commissioner, Bureau of Reclamation, Department of the Interior; and public witnesses.

INTELLIGENCE AUTHORIZATION ACT

Committee on Rules: Granted, a modified open rule providing one hour of general debate on H.R. 2417, Intelligence Authorization Act for Fiscal Year 2004, equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. The rule provides that the bill shall be considered for amendment under the five-minute rule. The rule provides that it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute now printed in the bill, which shall be considered as read. The rule waives all points of order against consideration of the bill, and against the committee amendment in

the nature of a substitute. The rule provides that no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the Rules Committee report accompanying the resolution, and all points of order against said amendments are waived. The rule provides that each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Goss and Representatives Cox, Harman, Hastings of Florida, Tauscher, Schiff and Turner of Texas.

VETERANS' MEASURES

Committee on Veterans' Affairs: Subcommittee on Health approved for full Committee action, as amended, 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.

TERRORIST FINANCING

Permanent Select Committee on Intelligence: Subcommittee on Terrorism and Homeland Security met in executive session to hold a hearing on Terrorist Financing. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR WEDNESDAY, JUNE 25, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, 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, 9:30 a.m., SD–124.

Committee on 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, 9:30 a.m., SH–216.

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Economic Policy, to hold oversight hearings to examine certain measures to strengthen the economic situation in rural America, 2 p.m., SD–538.

Committee on Energy and Natural Resources: business meeting to consider pending calendar business, 10 a.m., SD–366.

Subcommittee on Public Lands and Forests, 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, 2:30 p.m., SD–366.

Committee on Environment and Public Works: Subcommittee on Fisheries, Wildlife, and Water, to hold oversight hearings to examine the consulting process required by Section 7 of the Endangered Species Act, 9:30 a.m., SD–406.

Committee on Foreign Relations: to hold hearings to examine the implementation of the African Growth and Opportunity Act (P.L. 106–200), 9:30 a.m., SD–419.

Subcommittee on Near Eastern and South Asian Affairs, with the Committee on the Judiciary, Subcommittee on Constitution, Civil Rights and Property Rights, to hold joint hearings to examine constitutionalism, human rights, and the Rule of Law in Iraq, 2 p.m., SD–226.

Subcommittee on European Affairs, to hold hearings to examine the progress and challenges to the successor states to Pre-1991 Yugoslavia, 2:30 p.m., SD–419.

Committee on 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, 9:30 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: business meeting to consider S. 1248, to reauthorize the Individuals with Disabilities Education Act, and the nominations of David Hall, of Massachusetts, to be a Member of the Board of Directors of the Legal Services Corporation, Lillian R. BeVier, of Virginia, to be a Member of the Board of Directors of the Legal Services Corporation, and certain nominations in the Public Health Service, 10 a.m., SD–106.

Committee on the Judiciary: to hold oversight hearings to examine the Department of Justice Inspector General's Report on the 9/11 detainees, 10 a.m., SD–226.

Subcommittee on Constitution, Civil Rights and Property Rights, with the Committee on Foreign Relations, Subcommittee on Near Eastern and South Asian Affairs, to hold joint hearings to examine constitutionalism, human rights, and the Rule of Law in Iraq, 2 p.m., SD–226.

Full Committee, 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, 2 p.m., SD–215.

House

Committee on Agriculture, hearing to review the USDA Distance Learning and Telemedicine Program, 10 a.m., 1300 Longworth.

Committee on Appropriations, to consider the following appropriation for fiscal year 2004: Labor, Health and Human Services, Education and Related Agencies; Interior; and Agriculture, Rural Development, Food and Drug Administration and Related Agencies, 10 a.m., 2359 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing entitled ''GSE Oversight: The Need for Reform and Modernization,'' 10 a.m., 2128 Rayburn.

Subcommittee on Oversight and Investigations, hearing entitled ''Saving Taxpayer Money Through Sound Financial Management,'' 2 p.m., 2128 Rayburn.

Committee on Government Reform, Subcommittee on Government Efficiency and Financial Management, oversight hearing on ''Winning the War on Financial Management—Status of the Department of Defense Reform,'' 2:30 p.m., 2154 Rayburn.

Subcommittee on Human Rights and Wellness, oversight hearing on ''The Practical and Economical Aspects of Canadian Drug Importation,'' 2 p.m., 2247 Rayburn.

Committee on International Relations, Subcommittee on Asia and the Pacific, hearing on U.S. Trade Policy and Commercial Policy in Southeast Asia and Oceania, 10:15 a.m., 2172 Rayburn.

Subcommittee on International Terrorism, Nonproliferation and Human Rights, hearing on ''Global Trends in Trafficking and the Trafficking in Persons Report,'' 2:30 p.m., 2200 Rayburn.

Subcommittee on Middle East and Central Asia, hearing on Enforcement of the Iran-Libya Sanctions Act and Increasing Security Threats from Iran (Part 1), 1:30 p.m., 2172 Rayburn.

Committee on Small Business, hearing on the Effect of Foreign Currency Manipulation on Small Manufacturers and Exporters, 2 p.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, to mark up the following: H.R. 1572, to designate the historic Federal District Court Building located at 100 North Palafox Street in Pensacola, Florida, as the ''Winston E. Arnow Federal Building;'' H.R. 1668, to designate the United States courthouse located at 101 North Fifth Street in Muskogee, Oklahoma, as the ''Ed Edmondson United States Courthouse,'' H.R. 2144, Aviation Security Technical Corrections and Improvements Act of 2003; H.R. 2443, Coast Guard and Maritime Transportation Act of 2003; H.R. 2535, Economic Development Administration Reauthorization Act of 2003; the Amtrak Reauthorization Act of 2003; the Rail Infrastructure Development and Expansion Act for the 21st Century; the Water Resources Development Act; and other pending business, 11 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, Subcommittee on Benefits, to mark up the following bills: H.R. 1516, to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania; and H.R. 2297, to amend title 38, United States Code, to modify and improve certain benefits for veterans, 10 a.m., 334 Cannon.

Select Committee on Homeland Security, hearing entitled ''Assessment of DHS Initiatives to Secure America's Borders,'' 2 p.m., 2318 Rayburn.

Subcommittee on Cybersecurity, Science, and Research and Development, hearing entitled ''Overview of the Cyber Problem: A Nation Dependent and Dealing with Risk,'' 11:30 a.m., 2318 Rayburn.

Next Meeting of the **SENATE**

9:30 a.m., Wednesday, June 25

Senate Chamber

Program for Wednesday: 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.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Wednesday, June 25

House Chamber

Program for Wednesday: Consideration of Suspensions:

(1) S. 858, Abraham Lincoln Bicentennial Commission Extension;

(2) H.R. 2474, Use of Congressional Hunger Center to Administer the Bill Emerson and Mickey Leland Hunger Fellowships;

(3) H.J. Res. 49, Recognizing the 50th anniversary of the Foreign Agricultural Service;

(4) H.R. 1511, Awarding the Congressional Gold Medal to Prime Minister;

(5) H. Res. 277, Expressing Support for Freedom in Hong Kong;

(6) H. Con. Res. 49, Expressing Profound Concern Regarding the Escalation of anti-Semitic Violence Within States of the Organization for Security and Cooperation in Europe (OSCE);

(7) H. Res. 294, Condemning the terrorism inflicted on Israel since the Aqaba summit and calling on the Palestinian Authority to take immediate to dismantle the terrorist infrastructure on the West Bank and Gaza; and

(8) H. Res. 199, Calling on the Government of the People's Republic of China to Release Dr. Yang Jianli; and

Consideration of H.R. 2417, Intelligence Authorization Act for FY 2004 (modified open rule, one hour of debate).

Extensions of Remarks, as inserted in this issue.

HOUSE

Acevedo-Vilá, Aníbal, Puerto Rico, E1334
Baca, Joe, Calif., E1331, E1332
Bereuter, Doug, Nebr., E1333, E1337
Berry, Marion, Ark., E1334
Bordallo, Madeleine Z., Guam, E1335
Burns, Max, Ga., E1332
Calvert, Ken, Calif., E1332
Cardoza, Dennis A., Calif., E1339
Chabot, Steve, Ohio, E1340
Cox, Christopher, Calif., E1337
Crane, Philip M., Ill., E1331
Davis, Danny K., Ill., E1337
Duncan, John J., Jr., Tenn., E1332
Emanuel, Rahm, Ill., E1331, E1338
Everett, Terry, Ala., E1344
Fletcher, Ernie, Ky., E1339
Gordon, Bart, Tenn., E1341, E1342
Graves, Sam, Mo., E1333
Green, Gene, Tex., E1341
Harris, Katherine, Fla., E1336
Hinchey, Maurice D., N.Y., E1341
Hoeffel, Joseph M., Pa., E1333
Holt, Rush D., N.J., E1339
Kind, Ron, Wisc., E1342
King, Peter T., N.Y., E1336
Kleczka, Gerald D., Wisc., E1332
Kolbe, Jim, Ariz., E1334
Lipinski, William O., Ill., E1331
Lowey, Nita M., N.Y., E1339
McGovern, James P., Mass., E1336
McInnis, Scott, Colo., E1342, E1343
Miller, Jeff, Fla., E1334, E1344
Osborne, Tom, Nebr., E1338
Pallone, Frank, Jr., N.J., E1335
Pitts, Joseph R., Pa., E1342
Pomeroy, Earl, N.D., E1342
Rogers, Mike, Ala., E1335
Shays, Christopher, Conn., E1342
Smith, Christopher H., N.J., E1337, E1338, E1339, E1343
Upton, Fred, Mich., E1343
Visclosky, Peter J., Ind., E1335

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