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House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 29, 2003.

I hereby appoint the Honorable E. CLAY SHAW, Jr. to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Bryce Anderson, pastor, Church of the Living Word, Vincennes, Indiana, offered the following prayer:

God of our forefathers, refuge of good and wise people in every generation: when history began, You were the first enlightener of minds. Yours was the Spirit that first led them out of their brutish estate. You are the Lord and giver of life, the source of all knowledge, the fountain of all goodness.

The patriarchs trusted You and were not put to shame. The prophets sought You and You committed Your word to their lips. The psalmists rejoiced in You and You were present in their psalms. The apostles waited upon You and they were filled with Your Spirit. The martyrs called upon You and You were with them in the midst of the flame.

Forbid it that we should fail to profit by these great memories of the ages or to enter into the glorious inheritance which You have prepared for us through Jesus Christ our Lord. 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 Oregon (Mr. DEFAZIO) come forward and lead the House in the Pledge of Allegiance.

Mr. DEFAZIO led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

S. 247. An act to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, and for other purposes.

WELCOMING THE REVEREND BRYCE ANDERSON

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

Mr. HOSTETTLER. Mr. Speaker, I am pleased that our session today began with a prayer delivered by Bryce Anderson, pastor of the Church of the Living Word in Vincennes, Indiana.

It is a proud and longstanding part of our heritage that the work of Congress begins only after God's blessing and favor is sought, and I am proud that Pastor Anderson could participate in this historical duty.

In 1987, Pastor Anderson and his wife, Bobbie, established the Church of the Living Word as an outreach to their community. In his 16 years as pastor, Bryce has demonstrated the commitment and dedication that make him both a role model and spiritual leader in Knox County.

Bryce shares with the first Speaker of the House, Frederic Augustus Muhlenberg, the notion that service to God and public service go hand in hand. Like so many of our founders, Pastor Anderson believes the church has both a role and responsibility to be active in faith and in service to community and country.

Mr. Speaker, I could not agree more.

ON THE RELEASE OF U.S. CITIZEN FUMING FONG

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

Mr. PASCRELL. Mr. Speaker, for both sides of the aisle, Monday evening was a great time for New Jersey and America. I was at the Newark Airport at 11 p.m. when Fuming Fong, an American citizen who has been held in prison by the Chinese for 3 years, was finally released and returned home.

Mr. Speaker, I want to thank the State Department, most notably Assistant Secretary Kelly, and Will Laidlaw from the U.S. embassy in Beijing who came with Fuming Fong to join his family here in the United States. He is from West Orange, New Jersey, which is part of my district.

Fuming Fong is an electrical engineer. He was charged in a universal charge of bribery, which so many people are in Chinese prisons for. He was detained by the Chinese Government in February of 2000. After meeting with the Fong family in August 2001, I made the decision that this was something we could all get on board with, and so I went to China in January and the end of this year to plead with the Chinese Government, indeed, the President himself.

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Mr. Speaker, any time that we begin to take freedom for granted, I would like my colleagues here in this House to think of Fuming Fong and what he went through and how beautiful this country of America is.

WASHINGTON WASTE WATCHERS

(Mr. MARIO DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I once again want to talk a little about the Washington Waste Watchers and the work that a number of us are trying to do to root out waste in Washington. The examples are just one after another; but one that hit me, I think like a ton of bricks, was the $814,000 in salary and bonuses for a Head Start executive director in Kansas.

Yet, Mr. Speaker, when we bring these up, our good friends on the Democratic side of the aisle have only one solution. What is their solution? Do they join us when the chairman of the Committee on the Budget proposes to cut 1 percent in waste, fraud, and abuse? No, they propose increased taxes on the American people.

When we see a $470,000 grant to study individuals, now, listen to this, drinking alcohol while watching pornography, do we get the Members of the other side of the aisle coming forward to say we want to help cut waste, fraud, and abuse? No, they propose to increase taxes on the American people. When we see, for example, the Impact Aid funds intending to go to schools in South Dakota that were instead used, some of them, to purchase real estate, to purchase a Lincoln Navigator and a Cadillac Escalade, do we get our friends on the Democratic side of the aisle to say we want to support you in cutting this waste? No, they propose increasing taxes, 25 times just this year alone.

NO MONEY FOR EXTENDED UNEMPLOYMENT BENEFITS FOR AMERICANS

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

Mr. DEFAZIO. Mr. Speaker, the whining from the other side of the aisle is extraordinary. They can see all this waste, fraud, and abuse; but they control the White House, the Senate, and the House and yet they do not do anything about it. Puzzling.

Here is something else they do nothing about which is very puzzling. There are 4 million American workers who have exhausted their unemployment benefits and cannot find work. The President and the Republican majority say that we cannot afford to extend unemployment benefits to these people, despite the fact there is $20 billion sitting in the Unemployment Trust Fund of taxes paid by Americans.

No waste, fraud, and abuse here; there are just people who cannot find work and want it. Now, the Republicans say we cannot afford it, but they are borrowing hundreds of millions of dollars to pay Iraqis for no-show jobs. The anti-waste, -fraud, and -abuse crowd is happy to pay Iraqis for no-show jobs, but they will not give unemployed Americans benefits out of a trust fund. These are people who want to work and cannot find work because of the miserable economic record of this administration.

IRMO HIGH SCHOOL'S BLUE RIBBON AWARD FOR 2003

(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 honor the students and faculty of Irmo High School in Irmo, South, Carolina. Irmo High just received recognition from the U.S. Department of Education as a blue ribbon school, their third such award.

As Secretary of Education Rod Paige has said, schools chosen for the blue ribbon will be ones that are meeting our mission to ensure that every child learns and no child is left behind. Blue ribbon recipients will be national models of excellence that others can learn from.

I want to personally thank the hard work of the faculty who have visited Washington, including Principal Gerald Witt, teachers Phil Tanner, Jan McCarthy, and JROTC director Colonel Pete Sercer. Also, School District Five school board members have supported the progress made at Irmo High School, especially Jan Hammond, Paula Hite, and Carol Sloop. Yet above all, the ones who really deserve recognition are the students who have achieved remarkably.

Irmo High School is truly an example of educational success, and I ask all my colleagues to join me in honoring the school today, a day highlighted by the visit of California Governor-elect Arnold Schwarzenegger.

In conclusion, may God bless our troops.

THE ECONOMY

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

Ms. SOLIS. Mr. Speaker, when I travel home to Los Angeles County, the people ask me, where are the jobs? Where are the extended unemployment insurance benefits?

When we look at this chart, we can see that since January of 2001 we have not made any progress. In fact, in the San Gabriel Valley the unemployment rate is still above 10 percent, and it is double digit in areas that are unincorporated in East Los Angeles where we have high minority populations. These are working people that are looking for relief. They are waiting for unemployment insurance. And they are also asking why is the Republican Party not doing more to strengthen our economy.

The Democrats want to provide pay increases for our Reservists and our military families. I am ashamed to say these are the same families we represent that are in waiting lines to get food, these Reservist families in my district; and I think that is abominable.

We need to provide a tax incentive to encourage companies to keep jobs at home, not abroad, like Halliburton and Bechtel. We need to raise the minimum wage. We need to pass a highway infrastructure bill that will keep good-paying jobs, not minimum-wage jobs, but jobs that pay above minimum wage.

Mr. Speaker, I ask my colleagues to consider proposing those incentives that we are talking about today to restore the economy for Americans.

NO FINANCIAL AID FOR SEX OFFENDERS ACT

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

Mr. KELLER. Mr. Speaker, today I am introducing the No Financial Aid for Sex Offenders Act for 2003. It is a national embarrassment that we are handing out taxpayer dollars for pedophiles and rapists to take college courses while hardworking young people from poor and middle class families are left to flip hamburgers and mow lawns to pay for college.

In 1972, Congress created the Pell grant program to help children from low- and moderate-income families go to college. In 1994, Congress prohibited State and Federal prisoners from getting these Pell grants. This past year, 54 violent sexual predators in Florida obtained over $200,000 in Pell grants at taxpayer expense. They got a free ride by exploiting a loophole, that is, they were involuntarily confined in something called a civil commitment center as opposed to being called a prison.

This legislation closes that loophole and ensures that this money will be used as intended, by needy law-abiding college students. I urge my colleagues to cosponsor this legislation, H.R. 3385.

ARMED FORCES TAX FAIRNESS BILL

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

Mr. EDWARDS. Mr. Speaker, it is outrageous, it is unbelievable, but it is true. The House Republican leadership has kept at the Speaker's desk, since March of this year, the Armed Forces Tax Fairness Bill. Several months ago, they said we could afford to give a $230,000 tax break to American citizens living safely here at home making $1

million in dividend income; yet the gentleman from Texas (Mr. DELAY) and the gentleman from Illinois (Mr. HASTERT) say we cannot afford to provide modest tax help to brave service men and women, many of whom are serving in Afghanistan and Iraq.

Yesterday, the leadership said we had time to rename three post offices around the country; yet we have not had the time to consider the Armed Forces Tax Fairness Act. Why? Because it is paid for by closing the Benedict Arnold loophole that lets American citizens renounce their citizenship to keep from paying taxes.

It is shameful the Republican leadership seems to be more interested in protecting Benedict Arnolds than in helping our service men and women.

ENERGY PLAN VITAL FOR AMERICA'S HOMELAND DEFENSE

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

Mr. STEARNS. Mr. Speaker, with national security foremost on the minds of the American people, there is one thing we can do to simultaneously protect our shores and boost the economy: quickly approve a comprehensive energy plan.

With the President's support, the House passed a responsible energy plan last Congress that will free us from the undue burden of dependence on foreign oil and, of course, bring new jobs to parts of the country that sorely need them.

Ignoring this impending energy crisis will do nothing to solve it. ANWR exploration could free us from trading with leaders like Saddam Hussein, who used oil money to develop weapons of mass destruction. Increased domestic production is an indispensable component of any energy plan.

Mr. Speaker, during World War II, our great nations bonded together and made personal sacrifices to make this world a safer place to live.

□ 1015

Now, again, we are at war, a Nation at war, and just like in the past, we need to come together. We can take one giant step forward by implementing the House's energy plan.

EXTEND UNEMPLOYMENT BENEFITS

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

Ms. HOOLEY of Oregon. Mr. Speaker, today I am introducing a petition to force a vote on legislation to extend unemployment benefits as a triage effort to tide people over until we address the underlying problem behind high unemployment rates: the U.S. economy's job losses.

This country has lost 3.2 million private sector jobs in the last 3 years. It is not that Americans are not looking for work, it is that the jobs are just not there.

In addition to providing a safety net to individuals, we need to focus on creating an environment allowing the private sector to grow and create these desperately needed jobs. Not only do unemployment benefits provide a level of security to families, unemployment benefits also help stimulate our local economies. When people do not have spending power, businesses hurt.

Last week 11,000 Oregonians exhausted their benefits, and that number is going to continue to grow unless this Congress acts. This deprives our State's local economy of $3 million every week in stimulus. Unemployment benefits are intended as a safety net to bridge people from one job to the next. I urge my colleagues to join me in signing this discharge petition.

MEDIA NOT GIVING BALANCED ACCOUNTING

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

Mr. SMITH of Texas. Mr. Speaker, if Americans do not get the facts from the media objectively reported, they do not have a basis on which to make good decisions. For example, a few days ago The Washington Post ran a six-column page 2 story about the redistricting process that the Texas legislature completed earlier this month. The writer quoted eight Democratic Members of Congress but not one Republican official. This was obviously a one-sided report that did not give their readers a balanced accounting.

A recent Gallup Poll showed that 45 percent of Americans believe the news media in this country are too liberal, while only 14 percent say the news media are too conservative. Ultimately, it is a matter of trust, whether the media trusts the American people with the unvarnished facts. They should. Let the people make up their own minds, not be told what to think.

SUCH A DEAL

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

Mr. EMANUEL. Mr. Speaker, in the last 3 years, 3 million Americans have lost their jobs; 42 million Americans are without health insurance of which 22 million Americans work full time; a trillion dollars worth of corporate assets have been foreclosed on; and 3 million more Americans have walked out of the middle class to poverty.

In that same period of time, we have added $3 trillion to the Nation's debt.

Mr. Speaker, $3 trillion added to the Nation's debt; 3 million Americans have lost their jobs. As my great aunt would say, ''Such a deal.''

We need to do better for the American people. Just last week we passed an economic program for Iraq's future. I voted for it. It included investments in jobs, health care, education, housing, and infrastructure. The promise we make to Iraq and the values we hold for Iraq must be the promise we hold for the American people. We must now invest in our economic growth so we can stimulate our job market with the same kind of attitude and investment that we have had in the stock market. We have a health care crisis and a job crisis in this country. We must invest in America's economic future with the same commitment we have done for Iraq.

CALIFORNIA FIRES DEVASTATE LANDSCAPE

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

Mr. CUNNINGHAM. Mr. Speaker, Governor-elect Schwarzenegger just addressed the Republican Conference, and he is meeting with leaders on both sides of the aisle. What he is asking for is help for the State of California. When I left San Diego, it literally looked like an atomic bomb went off. Going from Los Angeles to San Diego, it looks like a moonscape. Governor-elect Schwarzenegger is meeting with the leadership from the Democratic side and our side, and he said that we need to work together on this.

Mr. Speaker, I do not know if most people understand the devastation. I have seen what B–52 raids do to a city. It fails in comparison to what is happening in San Diego. We ask Members of Congress on both sides of the aisle to work with us in California's desperate time.

RELIEF FOR UNEMPLOYED WORKERS

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

Mr. MICHAUD. Mr. Speaker, I just signed a discharge petition to extend unemployment benefits for dislocated workers across our Nation, and I am here to urge my colleagues to do the same. Let me just share some of the numbers from the State of Maine. For the past 3 years, Maine has lost 22 percent of its manufacturing jobs, 15,500 jobs in total, the highest in the Nation.

Mr. Speaker, where is relief for these workers and their families? Too many Mainers are approaching today, tomorrow and the coming days without a job, without health care coverage, without adequate food and medicine, and without the ability to make ends meet. We cannot turn our backs on these workers and their families. We must extend unemployment insurance for the people who have exhausted their benefits. Our most important job is to help those who cannot find a job.

WHERE IS THE ACCOUNTABILITY?

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I too ask my colleagues to sign onto a very important discharge petition that will help 4.6 million of our dislocated workers. I rise to say that, but I also rise to ask the question that Robert Kennedy asked, some people will ask why, and I ask, as he did, why not?

President Bush yesterday in essence said that we should stay the course, and I would argue that even as we make a commitment to ensure that we rebuild Iraq, it is imperative that there is accountability, accountability for the lost lives of our young brave men and women, accountability for the tragedies of 40 deaths in the last 48 hours, accountability for a nonexit plan, and no strategy to rebuild Iraq.

Mr. Speaker, I ask for the resignation of CIA Director George Tenet, accountability by Secretary Rumsfeld, Paul Wolfowitz, and I would ask that they be held accountable. There are too many lives being lost, there is too much to be done for us to stand idly by. Some ask, why; I ask, why not?

TWO MORE SOLDIERS KILLED

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

Mr. MCDERMOTT. Mr. Speaker, yesterday we listened to the President have a press conference. We discovered it is 1984, war is peace, that chaos is democracy, and that everything is fine. Yesterday two more soldiers were killed in Iraq. Nothing has changed in the Department of War. We have the same Secretary, we have the same Assistant Secretary, we have the same people in the White House saying that we are doing just fine. They have not changed anything. They just want more money out of us.

I suggest that we have a moment of silence for those who died yesterday.

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

GENERAL LEAVE

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to go to conference on H.R. 2989, and that I may include tabular and extraneous material.

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2989, TRANSPORTATION, TREASURY AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. OLVER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2989, be instructed to insist on the Senate position with respect to Transit New Starts and Job Access and Reverse Commute funding, and be further instructed to insist on the House position with respect to National Archives and Records Administration's Electronic Records Archives and National Historical Publications and Records Commission grants.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. OLVER) will be recognized for 30 minutes and the gentleman from Oklahoma (Mr. ISTOOK) will be recognized for 30 minutes.

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

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

Mr. Speaker, the House and Senate versions of the Transportation-Treasury bill have substantial differences on a wide range of issues that we will have to reconcile in our conference negotiations, and some of those reconciliations will not be easy. Many of these, such as the differences in funding level for Amtrak and election reform are widely publicized and well known.

The two versions of the Transportation-Treasury bill contain a number of issues that have not been as widely noted, but will have nevertheless a significant impact on people's lives.

The motion to instruct that is at the desk and has been read this morning highlights just a few of those issues that I believe and we believe on this side deserve the attention of the conferees.

First, the motion insists upon the Senate's funding level for Transit New Starts projects. The House bill provided $1.21 billion, more than $100 million below the Senate level of $1.32 billion, and even the Senate bill is in turn more than $200 million below the President's request.

Under the House funding level, the Members on both sides of the aisle were not able to secure funding for many of the light rail projects in their districts. Several of the projects that did receive funding are well below the actual needs of the project in fiscal year 2004.

The New Starts program which covers heavy and light rail, commuter rail, and rapid bus systems has helped create or extend hundreds of transit fixed guideway systems across the country. These investments in turn provided greater mobility for many millions of urban and suburban Americans. They have helped to reduce congestion and improve air quality in areas that they serve, and they have fostered the development of safer and more livable communities.

Mr. Speaker, I remind Members that the President's budget request sought $1.51 billion, which is $300 million more than is provided in the House bill, and that this motion supports $100 million of that difference. President Bush's request and the Senate's funding level acknowledge the need for additional major investment in transit light rail projects. We need to pass this motion to ensure that the conferees share this priority.

Second, Mr. Speaker, today's motion to instruct insists upon the Senate level of funding of $125 million for the Job Access and Reverse Commute funding.

□ 1030

This program is designed to assist welfare reform efforts by providing better transportation services for low-income individuals, persons who often cannot afford automobiles in this society, including former welfare recipients who are traveling to jobs or training centers. The House-passed bill is $40 million below the Senate funding level and $64 million below the fiscal year 2003 enacted level, which was $149 million for that program.

The Senate funding is already 15 percent below last year's enacted level, but the House bill provides something more than a 40 percent cut in last year's enacted funding level for that program. Reducing funding for those trying to get to work or for those trying to get training to reenter the workforce seems to be the wrong priority under the current circumstances.

Since 2001, the economy has lost over 3 million private sector jobs and 2.6 million jobs overall. The unemployment rate is hovering near 6 percent with little sign of improvement. For those who see improvement in the economy, there is a general acknowledgment that this has been thus far a ''jobless recovery.'' Given this economy, I would suggest that we should not want to reduce the funding aimed squarely at getting people back to work.

Thirdly, Mr. Speaker, the motion insists upon the House funding levels for the National Archives electronic records archives initiative and for the National Historic Publications and Records Commission grants. These two programs, administered by the National Archives and Records Administration, are both critical for properly

maintaining our Nation's history. The House bill fully funds the budget request of $35.9 million for the electronic records initiative and this funding will help build the infrastructure necessary for properly maintaining the Federal Government's electronic records. It also serves as a standard for States and municipalities as they deal with issues involving electronic records archiving.

Unfortunately, the other body neglected to provide the necessary resources for these vital programs. Without funding at the House level, hundreds of thousands of electronic records and historic records will not be maintained as they should be.

Mr. Speaker, I urge support for the motion to instruct conferees.

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

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

Mr. Speaker, the motion to instruct conferees, of course, is not binding upon the conferees. It is intended, I know, by the gentleman from Massachusetts as an expression of intent. Although I would not pretend to agree with all the priorities that he seeks to express in it or to bind us, but in the spirit of advancing this issue through the House, the bill, in the spirit of comity, I am willing to accept the amendment. Then we will do the best we can on that and other priorities in conference.

I should point out, of course, that if we do as the gentleman from Massachusetts suggests and guarantee that there be over $100 million additional for new starts, that money might come out of highways. I do not know how we are going to work through these things, but I do believe that it is best, rather than fight over things on the floor, to accept the amendment and let the conferees do the best they can in working on this and on the other priorities.

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

Mr. OLVER. Mr. Speaker, I thank the gentleman for his willingness to accept the motion. I have just one or two speakers that I would like to allow time for. Then we will go on to other things.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the distinguished ranking member for yielding me this time, and I thank the chairman of the subcommittee as well.

Mr. Speaker, I rise enthusiastically to support the Olver motion to instruct the conferees, the transportation appropriations conferees for, I think, a very well-thought-out instruction that emphasizes the direction that is crucial for this country. To maintain or support the Senate level for the new starts, I believe, is absolutely crucial.

As I look at the Nation's needs as a member of the Select Committee on Homeland Security, one of the issues that we have spoken about is to ensure the safety of the Nation's byways, highways, freeways and certainly to reassess the needs for improved and increased regional mobility, clean, secure, efficient regional mobility opportunities. These new-start moneys will assist in light rail, it will assist in guideways, it will assist in helping urban and suburban areas, and it will assist in rapid buses and commuter systems.

It is interesting that, as we debate this question, we in Houston are in the throes of moving forward on our light rail projects; and certainly a city that is the fourth largest city in the Nation clearly would have a very ready opportunity, if you will, on its plan to be able to secure Federal funds. We do know that in the appropriations process now, there are about 30 cities with others standing in line. I believe in the 21st century this is no time to turn around on our commitment to transit issues. It helps us improve the quality of life, and it helps us in particular to improve the opportunity for air quality and for the ability of our citizenry to move about. Clearly, the Senate level for the job access and reverse commute grants is imperative. Right now we know we have totally about 4.6 million in dislocated workers around the Nation. In Texas we have over 131,000 unemployed individuals and growing. Therefore, this question of being able to access your job without necessarily having a car and also to access training is crucial, particularly in States that have been hard hit by unemployment.

I would hope that my colleagues would see the reason of this motion to instruct and know that this is no time to shortchange the opportunities of growth in mobility that we have before this Congress. Local communities look to the Congress to be bipartisan, to be embracing, to be smart, and to move forward on transportation issues where they cannot. All over our country they are looking to improve many of their systems. Let it be known that regional mobility is not singular. It is rapid buses. It is guideways. It is light rail. In some instances it may be expansion of our roadways. But whatever it is, those Federal funds are imperative for us to have. I would ask my colleagues to enthusiastically support the decision that this Congress needs to make.

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

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

The SPEAKER pro tempore (Mr. SHAW). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. OLVER).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ISTOOK, WOLF, LEWIS of California, ROGERS of Kentucky, TIAHRT, Mrs. NORTHUP, Messrs. ADERHOLT, SWEENEY, CULBERSON, YOUNG of Florida, HOYER, OLVER, PASTOR, Ms. KILPATRICK, and Messrs. CLYBURN, ROTHMAN and OBEY.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.J. RES. 75, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 417 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 417

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 75) making further continuing appropriations for the fiscal year 2004, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 417 is a closed rule that provides for the consideration of H.J. Res. 75, a continuing resolution that will ensure further appropriations for the fiscal year 2004. The rule provides for 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution and provides for one motion to recommit.

Mr. Speaker, we passed the first continuing resolution, H.J. Res. 69, during the final days of September and it became Public Law 108–84. The provisions of H.J. Res. 69 are scheduled to expire this Friday, October 31. Therefore, under the joint resolution that this rule makes in order, the provisions of that first continuing resolution will be extended until November 7, 2003. In brief, for the fiscal year 2004 appropriations bills that have been enacted into law, the continuing resolution provides an additional week of funding for government agencies.

Mr. Speaker, we did pass a continuing resolution last week that conjoined the six fiscal year 2004 appropriations bills that have been passed by

the House, but the other body clearly needs additional time to complete the funding work for the coming year. The House has passed each of the 13 regular appropriations bills. However, to ensure that essential government services continue to operate, this rule makes in order another continuing resolution to give us the additional time to complete the appropriations process in an orderly manner.

This rule was approved by the Committee on Rules yesterday. I urge my colleagues to support it. I know all of us in the House wait with great anticipation the completion of the appropriations work by the Members of the other body. Until that time, this resolution will provide a continuation of funding for government agencies until these important issues are resolved.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I thank my good friend, the gentleman from Georgia (Mr. LINDER), for yielding me the time. I oppose this closed rule and the underlying legislation.

Mr. Speaker, I wondered to myself last night as the Committee on Rules majority Republicans passed yet another closed rule which stifles debate and shuts off meaningful contributions from all of the Members of this Chamber, what is the problem? Congress has only had since January 3 of this year to complete work on the 13 annual appropriations bills, the so-called ''must pass'' bills that Congress works on every year. In case anyone is unclear, so far Congress has passed three of the 13 appropriations bills that must pass before September 30. Defense appropriations, done. Homeland security, done. And, of course, the bill which funds this very institution, Congress, done. Everything else, military construction; veterans affairs; labor, health and human services; commerce, judiciary; education, all just kind of out there somewhere in this vacuous air inside the Beltway.

And the sad part? No one to blame but the party in control. Despite the fact that just yesterday I heard a Member of the other body blame former President Clinton, I do not think the American people are buying that. The fact is the last time there was single-party control of Congress at the beginning of President Clinton's administration, control of Congress and the White House, all 13 appropriations bills were passed by September 30.

□ 1045

We had a balanced budget, and, oh, yes, we had budget surpluses as far as the eye could see.

My, how times have changed. Well, thank you, Mr. President. Thank you, my good friends, the Republican Congress. Now, we have debt in our Nation as far as the eye can see, and, in many respects, disdain from a large portion of the rest of the world.

In my view, the majority is the modern day reincarnation of Nero. The majority fiddles while the Nation burns, or, to put it another way, we are drowning in a sea of red ink.

It will surprise no one, then, that I think we should not pass this rule. We should not pass the underlying legislation. We should stop working 2-day workweeks like we did last week, and we should stay here and finish our work; yes, work maybe even 7 days a week, until we do what the people have elected us to do. What a crazy suggestion.

Enough already. Let us get to work.

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

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

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged at this time to yield 3 minutes to my good friend, the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me time and for his leadership on many of these issues.

Mr. Speaker, I rose just a few minutes ago to support the movement of the conference of the Committee on Appropriations Subcommittee on Transportation, Treasury, and Independent Agencies and hope that this body would support the idea of going with the Senate numbers on certain aspects of that appropriations process.

The distinguished gentleman from Florida is absolutely right: This Congress is in the hands of the other party, and any delay that is now going on that requires us, again, to implement another CR, as we have done in sessions past when this body, both this House and the other body, have been dominated and controlled by the Republicans, is because we have this aggravation and tension about who should be provided for first, the domestic needs of this Nation, or whether or not we should be continuing to throw good money after bad in areas where we cannot point to the success of that investment.

It is clear that the struggle in HHS is about funding our children's educational needs, and, because the Republicans are not interested in doing that, then we have gridlock. It is clear that in instances where we are trying to provide extra resources for investment in the Nation's troubled transportation systems we have gridlock, because the other body, the other party, is not interested in compromise. So I believe it is crucial that we have a CR that has the opportunity for an open rule to provide insight and amendments on these very issues.

I would hope that my colleagues would see the folly of a continuing CR that does not in fact have the teeth to address the concerns that we have, address the concerns of the $20 million billion that we have now begun to move forward on the rebuild of Iraq.

The President said yesterday we had about $13 billion from our friends and allies. I believe that with a little more time we could get more money, have more stakeholders in the rebuild, and that we should insist that the President collaborate with our NATO allies before we give one cent. I believe if we do give the $20 billion, it should be in the context of a $10 billion loan, as opposed to a total $20 billion giveaway.

None of us are against the rebuilding of Iraq or investing in democracy. We are against the continued loss of life of our young men and women on the front lines. We are against a haphazard policy as relates to Iraq. We were against a preemptive attack. And we certainly were against the lack of finding of weapons of mass destruction.

All of this ties into, ultimately, how this Congress spends its money and how it invests in spending its money. I believe the CR is misdirected, it should be an open rule, and I believe the American people expect more from this Congress and we should be held accountable.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), my good friend and colleague on the Committee on Rules.

Mr. MCGOVERN. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I have a list here from the NFL of the top punters in the NFL. The top 3 punters are Shane Lechler from Oakland, Brian Moorman from Buffalo, and Scott Player from Arizona. And as talented and experienced and skilled as these punters are, they have nowhere near the ability that the Republican leadership in this House has when it comes to punting, because that is what we are doing today. We are punting once again, because the Republicans in this House cannot get along with the Republicans in the other body, and they cannot get their work done.

The main job that the leadership of this House has is to pass 13 appropriations bills, work with the other body to get them passed and get them on the President's desk by September 30. This leadership has failed in doing that. They cannot do their job.

The Republicans cannot get along with Republicans. They cannot blame a Democratic Senate because they have a Republican Senate. They cannot blame a Democrat in the White House because they have a Republican in the White House. They control the House, they control the Senate, they control the White House, they even control the courts, and they still cannot get their job done.

So it is important for all of my colleagues to understand at this critical moment that we are here because the leadership in this House cannot get their work done. They cannot coordinate with Members of their own party. They cannot do the work that they are supposed to do.

I would just hope, and I say this especially to those who are watching this, that they understand, that these are the people who said give us the power and we will impress you with our ability and our skill and our efficiency.

Well, they have the power. Again, they have the power because they control the House, they control the Senate, they control the White House, and they cannot get their work done.

So we are going to punt until November 7, but I want to make a prediction right now, we are going to punt again. And it is kind of sad, because they are not doing the work they are supposed to do. They are not getting the job done.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the points that have been made are echoed all throughout this Chamber.

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

Mr. LINDER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHAW). The question is the resolution.

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

Mr. HASTINGS of Florida. 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 the question will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 418 ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 418

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2691) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 418 is a rule providing for the consideration of H.R. 2691, the Department of Interior and Related Agencies Appropriations Act of 2004. The rule waives all points of order against the conference report and against its consideration. The rule further provides that the conference report shall be considered as read.

Mr. Speaker, the Interior conference report that the House shall consider, following adoption of this rule, provides for $19.8 billion in budget authority for fiscal year 2004, which is $300 million above the level requested by the administration.

Specifically, the bill provides increased levels of funding for the National Park Service, for our system of National Wildlife Refuges, for the Indian Health Service, the Forest Service and the Bureau of Land Management, among others.

As a Member from the West, I am particularly pleased that the conference agreement provides for $227.5 million for payment in lieu of taxes, or PILT, which is greatly needed to reimburse local communities in Western States whose tax rolls are limited by extensive Federal land holdings in their areas. This bill funds PILT at a level of $7.5 million above the current year and $22.5 million above the level requested by the administration.

The bill also provides $212 million for Indian Trust reform to ensure that Indian Tribes receive full value for oil, gas and other mineral resources Federal agencies permit to be produced on their lands. By law, the Interior Department serves as trustee for Indian lands and resources, and Congress is committed to taking the steps necessary to see that the Department carries out those trust responsibilities to their fullest.

Finally, Mr. Speaker, the conferees are to be commended for their efforts to fund a wide range of forest, health and wildfire safety initiatives. The tragic wildfires now raging in California have focused the public's attention on the importance of reducing the threat of massive fires that endanger both lives and property in their affected areas. This year, the Congress has provided historic levels of resources for Federal fire fighting assistance, including in this conference report a total of $2.9 billion, one of the largest one-time fire fighting allocations in our history.

The bill includes $2.5 billion for the national fire plan, as well as additional $400 million to repay wildfire suppression expenses of last year. These funds emphasize providing fire fighting resources and personnel to keep fires small, reducing wildfire risks by reducing the buildup of hazardous fuels, increasing State, volunteer and community assistance, and stepped up research and development, performance monitoring and accountability.

Specifically, the conference agreement increases wildfire suppression by $289 million over the current year, wildfire preparedness by $65 million, hazardous fuels reduction by $11 million, and forest health and rehabilitation activities by $35 million over the current year.

Mr. Speaker, the gentleman from North Carolina (Chairman TAYLOR) and his fellow House conferees have done an excellent job under challenging circumstances. They have negotiated an agreement which protects the House positions on provisions far too numerous to mention, and they have reported a balanced bill that meets the most pressing needs of Interior Department and related agencies.

Accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the conference agreement.

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

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

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes.

Mr. Speaker, again the Committee on Rules has trampled on the rights of the minority and the voices of millions of Americans. Last night, the Committee held an emergency meeting to consider a rule for the Interior appropriations conference report. The Democrats had only an hour to skim the contents of the lengthy report before a quick hearing was held and the rules hastily approved along party lines. Now, this morning, the entire membership of the House is expected to consider the Interior appropriations conference report, even though Members had only a few late-night hours to scan the report.

It is almost November, and we are well into the new fiscal year, with only three of the 13 appropriations bills enacted into law. But inefficiency does not justify our hurriedly passing a bill appropriating almost $20 billion. The American people expect their elected Representatives will have more than a handful of dark hours in the late night to consider vital legislation.

Mr. Speaker, in the few hours I have had to read this conference report, I saw several problems with the bill. Back in 1992, the funding for the National Endowment for the Humanities and the National Endowment for the Arts reached its funding zenith, $176 million for each agency. Over the years, the NEA and NEH budgets have been slashed again and again, but for the last 2 years this body has voted to increase the funding for the arts and humanities.

□ 1100

In July, the House adopted the Slaughter-Dicks amendment in increasing the funding for NEA by $10 billion and funding for NEH by $5 million. However, the $10 million budget increase for NEA has been reduced by $4.5 million and the funding for NEA has been reduced by $5 million from the levels that the body endorsed.

Investing in the arts, Mr. Speaker, is a smart business. The $232 million the Federal Government invested in the NEA and NEH last year had an economic impact of $132 billion and billions in Federal, State, and local tax revenues. Every dollar the NEA invests in local theater groups, orchestras, or exhibitions generates $7 for the arts organization by attracting other grants and private donations and ticket sales.

Investing in the arts is also smart for our children. Over and over arts education has proven to increase academic performance, regardless of socioeconomic background. The NEA provides the grants for local arts activities in every State and in every congressional district. In Buffalo, New York, the NEA provided a small $10,000 grant to a community arts group to support a program to offer weekend classes in visual arts and jazz music for the African American children in Buffalo's low-income, inner city east side. Another small community grant to a group in Buffalo provided weekly workshops in media literacy and digital arts for girls age 9 to 15. And in the district of my colleague, the gentleman from Washington (Mr. HASTINGS), an 8-week summer residency program that provided psychiatrically and emotionally impaired children with instruction in creative writing, mask-making, and theatrical improvisation received a community arts grant from the NEA.

Yesterday, the Wall Street Journal told that story of an NEA arts program to bring professional theater companies to perform Shakespeare's plays in hundreds of small and midsize towns. The Chicago Shakespeare Theatre recently brought a live-action ''Romeo and Juliet'' to Paducah, Kentucky. After the performance, the audience stood up to cheer. The article ends by saying, ''Shakespeare played well on stage is a wondrously different thing from Shakespeare stammered through in a classroom.''

The National Endowment for the Humanities is at the forefront in preserving our American culture and history. Democracy suffocates without an understanding of its past. The NEH and NEA provide the air that our democracy needs to survive and to thrive. Bruce Cole, the chairman of the National Endowment for the Humanities, warns us that ''we face a serious challenge to our country that lies within our borders and even within our schools: the threat of American amnesia. We are in danger of having our view of the future obscured by our ignorance of the past. We cannot see clearly ahead if we are blind to history, and a nation that does not know why it exists or what it stands for cannot be expected to long endure.''

The bill fails to adequately fund programs that protect some of the Nation's most valuable treasures: our natural resources. Again, I repeat the admonition of former President Theodore Roosevelt, one of the fathers of American conservation: ''In utilizing and conserving the natural resources of the Nation, the one characteristic more essential than any other is foresight.'' We are caretakers of the Nation's natural resources and parks. We are entrusted with the duty to preserve them for generations yet to come, and we should not hand over management and protection of the natural treasures of our parks to the lowest bidders.

Going against the bill as passed by this body, the conference report has added funding for studies about privatizing jobs in the National Park Service and the United States Forest Service. The $8 million for these feasibility studies should be spent more wisely on finding ways to protect our natural resources, not finding ways to eliminate jobs. The report abandons the conservation trust agreement reached and enacted into law in response to the 315 Members of the House who voted for the Conservation Reinvestment Act.

For over a century, the Federal Government has acted as the trustee of monies belonging to native Americans. Seeking a complete accounting of these funds held in trust, our native Americans have sued the Department of the Interior, charging the Department with gross mismanagement of the trust fund. The conference report contains new language added to the report that directly interferes with their continuing litigation by limiting the Department's ability to comply with the judge's orders.

Many tribes from across the Nation are strongly opposed to this intrusion and have written to the gentleman from California (Chairman DREIER) and the gentleman from Texas (Ranking Member FROST), and I will insert for the RECORD at the end of my remarks three of those letters. The Seneca Nation called my office yesterday seeking help to protect their lawsuit from congressional meddling. Like any trustee, the Federal Government owes the tribes a complete accounting of the money. The new provision is a heavy-handed interference in an ongoing case in a co-equal branch of our government. We should show more respect for our Native Americans and our Federal courts.

MANDAN, HIDATSA, & ARIKARA, NATION,
New Town, ND, October 28, 2003.

Hon. DAVID DREIER,
Chariman, Committee on Rules, House of Representatives, Washington, DC.

Hon. MARTIN FROST,
Ranking Member, Committee on Rules, House of Representatives, Washington, DC.

DEAR CHAIRMAN DREIER AND RANKING MEMBER FROST: The House and Senate conferees have included language in the Interior and Related Agencies conference report which will halt further efforts by the Interior Department to conduct a historical accounting of the errors in Indian trust fund accounts, as directed by a federal court.

The so-called ''trust reform'' rider language violates Rule 21, clause 2 of the Rules of the House of Representatives and constitutes legislating on an appropriations bill. The provision also violates the scope rule, House rule 22, clause 9, since the provision was not in either the house or senate bill before conference. Thus, for procedural and substantive reasons set forth below, I ask the Committee to issue a Rule to Recommit the Interior and Related Agencies conference report back to conference with directions to eliminate the offending language.

This provision was drafted without any consultation with the Committee on Resources or with any of the affected class action plaintiffs, or with any Native American tribes. Furthermore, this provision will delay the resolution of the Indian trust fund accounting problem and the court case for years. Native Americans have waited for over 100 years for an accounting. Now is not the time for delay. In fact, many of the Cobell beneficiaries, whose main income depends on a proper accounting, are dying. If the Interior Department is allowed to delay, those older beneficiaries may never be repaid.

There is no question that the Cobell Plaintiffs are likely to win. The Interior Department knows this and that is the reason they are asking for a delay. It simply is not in keeping with American justice to delay the likely meritorious legal claims of hundreds of litigants because the losing party does not like the result. Finally, there are serious constitutional questions of due process and takings that are at stake.

Thus, I reiterate my opposition to the language in the trust reform rider and ask the Committee to issue a Rule to Recommit to Conference.

Sincerely,

TEX G. HALL,
Chairman,
Mandan, Hidatsa & Arikara Nation.

NATIONAL CONGRESS OF AMERICAN INDIANS,
Washington, DC, October 28, 2003.

Hon. DAVID DREIER,
Chairman, Committee on Rules.

Hon. MARTIN FROST,
Ranking Member, Committee on Rules.

DEAR MEMBERS: It has come to our attention that language in the FY2004 Interior Appropriations bill would allow the Department of Interior to ignore the Cobell v. Norton court ordered historical accounting for one year. This language, if adopted in the Conference Report, would be an unconstitutional violation of Article III powers and would constitute takings in violation of the Fifth Amendment. Additionally, and most importantly, it would be unfair to those parties that have waited out this litigation and are finally seeing a resolution to this historical injustice.

We hereby request that the language be ruled out of order. In the alternative, we respectfully request that the Committee allow a point of order by the authorizing committee Chairman. It is not our desire to ask the committee members to take the unusual step of asking for a motion to recommit in both the House and Senate.

Please note that the authorizing committee has already taken action on this issue. Just last week, the House Resources Committee held a field hearing in Billings, Montana to gather input on developing a process to settle the trust funds lawsuit. Additionally, the Resources Committee will beholding another field hearing this Saturday

at the Salt River-Pima Maricopa Community in Arizona to gather more input on this pressing issue. Finally, Senator Campbell, joined by Senators Inouye and Domenici, has introduced Senate bill 1770 to address concerns raised with the ongoing trust fund litigation, and will hold a hearing on the measure tomorrow.

Thank you for your consideration on this very important and time sensitive matter. If you have any questions regarding this concern, please do not hesitate to contact NCAI at 202.466.7767.

Sincerely,

TEX G. HALL,
President.

NATIVE AMERICAN RIGHTS FUND,
Washington, DC, October 28, 2003.

Hon. DAVID DREIER,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

Hon. MARTIN FROST,
Ranking Member, Committee on Rules, House of Representatives, Washington, DC.

DEAR CHAIRMAN DREIER AND RANKING MEMBER FROST: The Native American Rights Fund represents 500,000 individual Indians in the Cobell v. Norton Indian Trust Funds lawsuit. We have won every merits phase of this case and the right to have a full accounting of our multi-billion dollar Individual Indian Trust—which contains the proceeds from our own land. The House and Senate conferees have included language in the Interior and Related Agencies conference report which will halt further efforts by the Interior Department to conduct the historical accounting of all the assets of the Individual Indian Trust, as directed by a federal trial and appellate courts.

The so-called ''trust reform'' rider language violates Rule XXI, clause 2 of the rules of the House of Representatives and constitutes legislating on an appropriations bill. The provision also violates the scope rule, House rule XXII, clause 9, since the provision was not in either the house or senate bill before conference. Thus, for procedural and substantive reasons set forth below, we urge the Committee to issue a Rule to Recommit the Interior and Related Agencies conference report back to conference with directions to eliminate the offending language.

This provision was drafted without any consultation with the Committee on Resources or with any of the affected class action plaintiffs, or with any American Indian tribes. Furthermore, this hostile provision will delay the resolution of the Indian trust fund accounting for years. Native Americans have waited for over 100 years for an accounting. They have played by the rules and litigated this matter in federal court. Now on the brink of justice, this bill would further delay the relief these individual Indians deserve. Justice delayed is justice denied. Many of the Cobell beneficiaries—whose main income depends on these monies and who have not had the benefit of this proper accounting they are owed—are dying. If the Interior Department is permitted to further delay, the unconscionable result will be that those older beneficiaries may never be repaid their own trust money.

Furthermore, the trust funds rider is plainly unconstitutional. By directing the Court how to ''construe'' existing law, the appropriations rider violates the Constitutional Separation of Powers Doctrine. Indeed, as initially held in Marbury v. Madison, 1 U.S. (Cranch) 137, 177 (1803), ''It is emphatically the province and duty of the judicial department to say what the law is.'' Congress can therefore not tell a Court how to ''construe'' the law—that interpretive function is the Judiciary's.

There is no question that the Cobell Plaintiffs will continue to prevail. The Interior Department knows this and that is the reason they are asking for further delay. It simply is not in keeping with American justice to delay the decidedly meritorious legal claims of hundreds of litigants because the losing party does not like the result. Finally, there are serious constitutional questions of due process and takings that are at stake.

Thus, I reiterate my opposition to the language in the trust reform rider and ask the Committee to issue a Rule to Recommit to Conference.

Best regards,

JOHN ECHOHAWK,
Executive Director.

Mr. Speaker, I am happy to yield 6 minutes to the gentleman from Washington (Mr. DICKS).

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

Mr. DICKS. Mr. Speaker, I rise in support of the rule providing for consideration of the Interior Appropriations Act for fiscal year 2004. Although there are certainly things that I would have done differently, I am generally pleased with the process this year and am glad that we have the opportunity to bring this bill to the floor as a free-standing measure.

I supported the conference agreement and am particularly pleased it included the additional $400 million added by the other body for emergency wildland fire costs. The House voted overwhelmingly to have the money included in the final conference report, and we were successful in providing it.

Other levels in the bill are far lower than I would have hoped, particularly levels for conservation spending. Under the Conservation Trust Fund law established in 2000, this bill should have funded conservation programs at $1.56 billion for the Interior part of the bill. Unfortunately, this bill falls roughly $500 million short of that level. The impact of this cut will be felt nationwide. Funding is reduced for State and Federal land and water conservation fund, historic preservation, park and refuge construction, endangered species work, and forest legacy project. It means projects all over the country will not be done this year.

The agreement does provide small increases for other important programs that I am extremely pleased about. The National Endowment for the Arts receives a $5 million increase over last year, and that was a direct result of the Slaughter-Dicks amendment that added $10 million for the National Endowment for the Arts and $5 million for the National Endowment for the Humanities that was voted on overwhelmingly by the House. And the Tribal College Program receives an additional $10 million. My colleague from the other body, the ranking Democratic member, Mr. DORGAN, is to be given a pat on the back for his efforts on this matter.

The agreement also addresses the issue of competitive outsourcing with a compromise that I think is responsible. I want to again thank the gentleman from North Carolina (Chairman TAYLOR) and his staff for their work on this bill, his first, and urge my colleagues to support both the rule for the conference report and the conference report itself.

I want to go back on the issue of funding for firefighting just for a moment. I am deeply concerned about the process that we have today, the way we fund the efforts to deal with forest fires in our country. What we do is we in essence appropriate some of the money, but then give the agencies the ability, the Forest Service and the BLM, to borrow money from other accounts in order to fund all of the money that is necessary for fighting the fires. And then we do not replenish the amount of money necessary. In 2003, I think we were short a couple of hundred million dollars in terms of replenishing the money necessary to make up the funding that was borrowed.

Now, with FEMA, we do not do it that way. We just give FEMA the money, and they draw it down and then we replenish it; and this is what I think we should do. We have got to come up with a new way of funding firefighting in this country. It is not acceptable.

The other problem we have is we have old, antiquated equipment. We have a whole group of airplanes that are 40-plus years old that we are using for firefighting. And according to the staff on the Subcommittee on Interior Appropriations, we are losing lives because we are using this old equipment.

So I would urge that next year we make this a priority, that we have a committee investigation. I am going to talk to the gentleman from California (Chairman LEWIS) on the Subcommittee on Defense and the gentleman from North Carolina (Chairman TAYLOR) on the Subcommittee on Interior. We have to get some new equipment for these firefighters. It is outrageous that we are sending them out with these old airplanes and not replacing them. The planes that we use now are, I think, C–130s that are in some cases over 40 years old. I just had a chance to fly in a few of these over in Iraq; and I want my colleagues to know, I would not want to be fighting fires in these old planes.

So we have a lot of work to do, and I hope even in this supplemental, because of the situation in California. I understand the chairman of the Interior Appropriations Committee in the other body is considering an amendment to add money for additional funds for firefighting for the Forest Service and for the BLM. That should be done. We should not go in and start this year and start borrowing immediately on the 2004 money in order to fund these fires in California.

Now, I understand that $500 million was added in FEMA; and definitely, there is a requirement here for $100 million-plus for the Forest Service and the BLM.

So, Mr. Speaker, this is a good bill, and I am going to vote for this bill; but we have additional things that need to be done in the supplemental or in the omnibus.

So this is an important matter. I know there is a lot of controversy on the agreement on how we are going to deal with these trust accounts, and I just want to say, I am concerned about the potential liability here to the country and to the Congress if we do not come up with a settlement here. The authorizing committees have promised us over and over again that they are going to deal with this issue. Well, they have had one hearing. The pace of their activity is not what I would call brisk. They need to get busy here. They made commitments to the gentleman from North Carolina (Chairman TAYLOR) and myself that they were going to get busy on this issue. Well, they need to do it. That is not just in the House; it is also in the other body. They have to get busy, because this is a crisis that is affecting the Department of the Interior, and it is going to affect tribal programs and mean less funding for our tribes because of this if we do not come up with an answer. So we have some work to do.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the comments of my colleague, the gentleman from Washington (Mr. DICKS). I think much of this bill reflects positively on his leadership and hard work over the years on this committee. I appreciate that there are some things in here that deal with the notion of how we are going to protect the national Mall, issues of protecting the employees in the Department of the Interior, although I would have rather preferred the House-passed ban on contracting out their positions.

But I must come to the floor in deep disappointment, Mr. Speaker, dealing with the way that we have treated the conservation trust fund. I was one of the people that supported the landmark legislation that was advanced by the gentleman from Alaska (Chairman YOUNG) and the gentleman from California (Mr. GEORGE MILLER) that had huge, bipartisan support to address a serious failure on the part of Congress to fund our conservation programs. There are vast, unmet needs across the country.

We came together, passed the legislation in the House. It was held up in the other body, but there was a reasonable alternative that was brokered in no small measure due to the hard efforts of my colleague, again, the gentleman from Washington (Mr. DICKS). We went along with CARA Light as it was called, with the assurance that we had a trust fund in place. And I am sad to say that the commitment that was made to a bipartisan majority of this Chamber has been violated. This will would almost cut in half the program this year. The traditional acquisition programs are funded at $272 million, a little over half of what they received last year. I am deeply, deeply concerned.

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

Mr. BLUMENAUER. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to point out, and the gentleman, I think, mentioned this, this was a bipartisan agreement, by the way. This was not something that was just done by myself and the gentleman from Wisconsin (Mr. OBEY). This was something that the gentleman from Ohio (Mr. REGULA) was involved in and Mr. BYRD was involved in. So it had both House and the other body working together on this alternative, and so this was a bipartisan agreement. That is why it hurts me deeply that we have not been able to keep this up.

□ 1115

But budget levels have been so ridiculously low for the Interior, our allocation, that it has been almost impossible. The committee has made some very difficult choices, but I am completely in concurrence. I think their commitment was made. We should stay with it. We should get back to it, and, hopefully, we will at some point in the future.

But I have to concur with the gentleman that we are $500 million below where we were supposed to be under the agreement.

Mr. BLUMENAUER. Mr. Speaker, reclaiming my time, I appreciate the comments of the gentleman from Washington (Mr. DICKS), and I thank him for his hard work. In part, it is true that this underfunding is the result of the allocations that were given to the subcommittee. And I do not envy the gentleman from Washington (Mr. DICKS) or his colleague in terms of trying to fight this through. But the fact is, that this problem is part of the consequence of the decision of people who are running the show here in the House to systematically shortchange fundamental needs of the American public by moving forward with massive tax cuts.

There are also issues that I have deep concerns about in terms of misallocation of funds while we deal with the important issue of rebuilding Iraq and dealing with Afghanistan.

The point is there was a fundamental commitment made on a bipartisan basis by the leadership in this Chamber and in the other body in order to forestall mandatory spending under the Land and Water Conservation Fund, with the enactment of CARA.

There are other things in this bill that give me great pause that have nothing to do with finances. There are egregious riders dealing with the Tongass and Montana forests that are a real set back for the environment. The bill does not include House-passed language that prevented the construction of new roads through our national parks, wildlife refuges, and national monuments under the guise of the obscure 1866 mining law known as RS 2477 that is a path to destruction through national treasures.

There is a lot here to be concerned about, and, unfortunately, the way that the rule is structured and brought before us, the House is not going to be able to address them.

So in conclusion, Mr. Speaker, I would just say I appreciate the difficulty that the subcommittee had in some regards, and I appreciate the commitment of the gentleman from Washington (Mr. DICKS) to helping follow through on this agreement that was reached to be able to protect the environment. I hope we can do better. But I would think that we ought to start by rejecting the rule, rejecting the bill before us and make sure that we do right by the important agreements that we have for our environment and not approve destructive riders.

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I rise in strong opposition to the rule because of a provision included in the Interior conference report that would limit the Federal Government's accountability to over a half million American Indian Trust beneficiaries by preventing the Department of Interior from conducting a complete historical accounting of individual Indian Trusts, as directed by a Federal court last month in Cobell versus Norton litigation.

Last year, the House voted overwhelmingly to strike a similar provision in the fiscal year 2003 Interior appropriations bill. And in July of this year, the gentleman from North Carolina (Chairman TAYLOR) graciously agreed to drop a similar provision from the fiscal year 2004 Interior funding bill before it was considered on the House floor.

Despite these actions, the provision in the conference report, once again, serves to delay justice to the Indian beneficiaries who have waited for over 100 years for an accounting while opening up the government to new legal claims.

The Congressional Native American Caucus opposes this provision. The chairman and ranking Democrat of the Committee on Resources, the authorizing committee, oppose this provision. As a matter of fact, just a few minutes ago, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), during the markup over in the Committee on Resources, asked that if this rule is approved to vote against the Interior appropriations bill.

In addition, this provision was drafted without the input of the authorizing committee or any of the Indian Trust beneficiaries or Indian tribes.

Mr. Speaker, this provision violates the House rule against legislating on the appropriations bill. It may also violate the House scope rule since the provision was included in the conference report without having first been included in either the House or the Senate bills. It violates, I believe, the U.S. Constitution separation-of-powers doctrine since the provision dictates how a

Federal law relating to Indian Trust management reform should be interpreted. That interpretive function is the responsibility of the courts.

The House Committee on Resources held two hearings on Indian Trust funds this year, and it plans to hold more hearings. These hearings in the authorizing committee will produce the proper framework for settlement negotiations to resolve the Cobell case. Let us give the authorizing committee the opportunity to complete its job.

Mr. Speaker, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) are seriously committed to this. That is why they asked just a few minutes ago that if this rule is passed and the bill does come for a vote, the conference report, that we vote ''no'' on that conference report.

So I urge my colleagues, Mr. Speaker, to oppose the rule and to vote against the conference report.

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

Mr. HASTINGS of Washington. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHAW). The question is on the resolution.

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

Ms. SLAUGHTER. Mr. Speaker, 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, further proceedings on this question will be postponed.

RECESS

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

Accordingly (at 11 o'clock and 22 minutes a.m.), the House stood in recess until approximately noon.

□ 1205

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 12 o'clock and 5 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on adoption of those resolutions on which further proceedings were postponed earlier today.

Votes will be taken in the following order:

House Resolution 417, by the yeas and nays; and

House Resolution 418, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

PROVIDING FOR CONSIDERATION OF H.J. RES. 75, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 417, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

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

The vote was taken by electronic device, and there were—yeas 311, nays 112, not voting 11, as follows:

[Roll No. 574]

YEAS—311

Abercrombie
Ackerman
Aderholt
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
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 (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Engel
English
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoeffel
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCotter
McCrery
McHugh
McInnis
McKeon
McNulty
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—112

Allen
Andrews
Baird
Baldwin
Ballance
Becerra
Berman
Berry
Brown (OH)
Brown, Corrine
Capps
Capuano
Carson (IN)
Conyers
Cooper
Costello
Cummings
Davis (AL)
Davis (IL)
DeFazio
DeGette
Delahunt
Deutsch
Dingell
Doggett
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Filner
Ford
Frank (MA)
Frost
Gonzalez
Green (TX)
Grijalva
Hastings (FL)
Hinchey
Hinojosa
Holt
Honda
Hooley (OR)
Inslee
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kaptur
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Markey
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
Meehan
Meeks (NY)
Michaud
Miller, George
Moran (VA)
Nadler
Neal (MA)
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Rangel
Rodriguez
Ryan (OH)
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Serrano
Sherman
Slaughter
Snyder
Spratt
Stark
Strickland
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—11

Akin
Cannon
Clay
Dooley (CA)
Fletcher
Gephardt
Gutierrez
Houghton
Lampson
Pitts
Stupak

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1229

Messrs. DEUTSCH, RANGEL, JEFFERSON, Mrs. CAPPS, Ms. CORRINE BROWN of Florida, Ms. MCCARTHY of

Missouri, Ms. SCHAKOWSKY, and Ms. LINDA T. SÁNCHEZ of California changed their vote from ''yea'' to ''nay.''

Messrs. BLUMENAUER, CARDOZA, RUSH, Mrs. NAPOLITANO, and Mrs. JONES of Ohio changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. AKIN. Mr. Speaker, on Wednesday, the 29th of October, I was involved in a briefing with the Central Intelligence Agency. As a consequence, I was unavoidably detained and could not cast a vote for H. Res. 417. Had I been present at the time of the vote, I would have voted in the affirmative.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 418, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

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

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 289, nays 136, not voting 9, as follows:

[Roll No. 575]

YEAS—289

Aderholt	Cannon	Feeney	Israel	Moran (KS)	Schiff
Akin	Cantor	Ferguson	Issa	Murphy	Schrock
Alexander	Capito	Flake	Istook	Murtha	Scott (GA)
Baca	Cardin	Foley	Jackson-Lee (TX)	Musgrave	Scott (VA)
Bachus	Cardoza	Forbes	Janklow	Myrick	Sensenbrenner
Baker	Carter	Fossella	Jenkins	Nethercutt	Sessions
Ballenger	Case	Franks (AZ)	John	Neugebauer	Shadegg
Barrett (SC)	Castle	Frelinghuysen	Johnson (CT)	Ney	Shaw
Bartlett (MD)	Chabot	Gallegly	Johnson (IL)	Northup	Shays
Barton (TX)	Chocola	Garrett (NJ)	Johnson, Sam	Norwood	Sherwood
Bass	Coble	Gerlach	Jones (NC)	Nunes	Shimkus
Beauprez	Cole	Gibbons	Kanjorski	Nussle	Shuster
Bereuter	Collins	Gilchrest	Keller	Oberstar	Simmons
Berkley	Cox	Gillmor	Kelly	Olver	Simpson
Berry	Cramer	Gingrey	Kennedy (MN)	Osborne	Skelton
Biggert	Crane	Goode	King (IA)	Ose	Smith (MI)
Bilirakis	Crenshaw	Goodlatte	King (NY)	Otter	Smith (NJ)
Bishop (GA)	Crowley	Gordon	Kingston	Oxley	Smith (TX)
Bishop (UT)	Cubin	Goss	Kirk	Pastor	Snyder
Blackburn	Culberson	Granger	Kline	Paul	Souder
Blunt	Cunningham	Graves	Knollenberg	Pearce	Spratt
Boehlert	Davis (AL)	Green (TX)	Kolbe	Pence	Stearns
Boehner	Davis (CA)	Green (WI)	LaHood	Peterson (MN)	Stenholm
Bonilla	Davis (FL)	Greenwood	Larsen (WA)	Peterson (PA)	Sullivan
Bonner	Davis (TN)	Gutknecht	Larson (CT)	Petri	Sweeney
Bono	Davis, Jo Ann	Hall	Latham	Pickering	Tancredo
Boozman	Davis, Tom	Harris	LaTourette	Pitts	Tauzin
Boucher	Deal (GA)	Hart	Leach	Platts	Taylor (NC)
Boyd	DeLay	Hastings (WA)	Lewis (CA)	Pombo	Terry
Bradley (NH)	DeMint	Hayes	Lewis (KY)	Pomeroy	Thomas
Brady (PA)	Diaz-Balart, L.	Hayworth	Linder	Porter	Thornberry
Brady (TX)	Diaz-Balart, M.	Hefley	LoBiondo	Portman	Tiahrt
Brown (SC)	Dicks	Hensarling	Lowey	Pryce (OH)	Tiberi
Brown, Corrine	Doolittle	Herger	Lucas (KY)	Putnam	Toomey
Brown-Waite, Ginny	Doyle	Hobson	Lucas (OK)	Quinn	Turner (OH)
Burgess	Dreier	Hoeffel	Majette	Radanovich	Turner (TX)
Burns	Duncan	Hoekstra	Manzullo	Ramstad	Udall (NM)
Burr	Dunn	Holden	Marshall	Regula	Upton
Burton (IN)	Ehlers	Hostettler	McCarthy (NY)	Rehberg	Visclosky
Buyer	Emerson	Hulshof	McCotter	Renzi	Vitter
Calvert	English	Hunter	McCrery	Reynolds	Walden (OR)
Camp	Everett	Hyde	McHugh	Rogers (AL)	Walsh
	Fattah	Isakson	McInnis	Rogers (KY)	Wamp
			McKeon	Rogers (MI)	Weldon (FL)
			Meehan	Rohrabacher	Weldon (PA)
			Meek (FL)	Ros-Lehtinen	Weller
			Mica	Rothman	Whitfield
			Miller (FL)	Royce	Wicker
			Miller (MI)	Ruppersberger	Wilson (NM)
			Miller (NC)	Ryan (WI)	Wilson (SC)
			Miller, Gary	Ryun (KS)	Wolf
			Mollohan	Sabo	Wynn
			Moore	Sandlin	Young (AK)
				Saxton	Young (FL)

NAYS—136

Abercrombie	Harman	Millender-McDonald	Van Hollen
Ackerman	Hastings (FL)	Miller, George	Velazquez
Allen	Hill	Moran (VA)	Waters
Andrews	Hinchey	Nadler	Watson
Baird	Hinojosa	Napolitano	Watt
Baldwin	Holt	Neal (MA)	Waxman
Ballance	Honda	Obey	Weiner
Becerra	Hooley (OR)	Ortiz	Wexler
Bell	Hoyer	Owens	Woolsey
Berman	Inslee	Pallone	Wu
Bishop (NY)	Jackson (IL)	Pascrell	
Blumenauer	Jefferson	Payne	
Boswell	Johnson, E. B.	Pelosi	
Brown (OH)	Jones (OH)	Price (NC)	
Capps	Kaptur	Rahall	
Capuano	Kennedy (RI)	Rangel	
Carson (IN)	Kildee	Reyes	
Carson (OK)	Kilpatrick	Rodriguez	
Clay	Kind	Ross	
Clyburn	Kleczka	Roybal-Allard	
Cooper	Kucinich	Rush	
Costello	Langevin	Ryan (OH)	
Cummings	Lantos	Sanchez, Linda T.	
Davis (IL)	Lee	Sanchez, Loretta	
DeFazio	Levin	Sanders	
DeGette	Lewis (GA)	Schakowsky	
DeLauro	Lipinski	Serrano	
Deutsch	Lofgren	Sherman	
Dingell	Lynch	Slaughter	
Doggett	Maloney	Smith (WA)	
Edwards	Markey	Solis	
Emanuel	Matheson	Stark	
Engel	Matsui	Strickland	
Eshoo	McCarthy (MO)	Tanner	
Etheridge	McCollum	Tauscher	
Evans	McDermott	Taylor (MS)	
Farr	McGovern	Thompson (CA)	
Filner	McIntyre	Thompson (MS)	
Ford	McNulty	Tierney	
Frank (MA)	Meeks (NY)	Towns	
Frost	Menendez	Udall (CO)	
Gonzalez	Michaud		
Grijalva			

NOT VOTING—9

Conyers	Fletcher	Houghton
Delahunt	Gephardt	Lampson
Dooley (CA)	Gutierrez	Stupak

□ 1236

Mr. MORAN of Virginia and Mr. EDWARDS changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules.

VETERANS HEALTH CARE FACILITIES CAPITAL IMPROVEMENT ACT

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1720) to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, establishing, and updating patient care facilities at the Department of Veterans Affairs medical centers, as amended.

The Clerk read as follows:

H.R. 1720

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Health Care Facilities Capital Improvement Act''.

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

Sec. 1. Short title.
Sec. 2. Authorization of major medical facility projects for patient care improvements.
Sec. 3. Authorization of major medical facility projects and leases.
Sec. 4. Authorization of major medical facility projects, former Fitzsimons Army Medical Center, Aurora, Colorado.
Sec. 5. Limitation on disposal of Lakeside Division, Department of Veterans Affairs medical facilities, Chicago, Illinois.
Sec. 6. Plans for facilities in southern New Jersey and far South Texas.
Sec. 7. Increase in major medical facility construction cost threshold.
Sec. 8. Study and report on feasibility of coordination of veterans health care services in South Carolina with new university medical center.

Sec. 9. Name of Department of Veterans Affairs health care facility, Chicago, Illinois.
Sec. 10. Name of Department of Veterans Affairs outpatient clinic, New London, Connecticut.
Sec. 11. Office of Research Oversight in Veterans Health Administration.

SEC. 2. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS FOR PATIENT CARE IMPROVEMENTS.

(a) IN GENERAL.—(1) Subject to paragraph (3), the Secretary of Veterans Affairs is authorized to carry out major medical facility projects in accordance with this section, using funds appropriated for fiscal year 2004 or 2005 pursuant to subsection (e). The cost of any such project may not exceed—

(A) $100,000,000 in fiscal year 2004; and

(B) $125,000,000 in fiscal year 2005.

(2) Projects carried out under this section are not subject to section 8104(a)(2) of title 38, United States Code.

(3) The Secretary may not award a contract by reason of the authorization provided by paragraph (1) until after the Secretary has awarded a contract for each construction project authorized by section 3(a) and a contract for each lease authorized by section 3(d).

(b) TYPE OF PROJECTS.—A project carried out under subsection (a) may be carried out only at a Department of Veterans Affairs medical center and only for the purpose of one or more of the following:

(1) Improving a patient care facility.

(2) Replacing a patient care facility.

(3) Renovating a patient care facility.

(4) Updating a patient care facility to contemporary standards.

(5) Establishing a new patient care facility at a location where no Department patient care facility exists.

(6) Improving, replacing, or renovating a research facility or updating such a facility to contemporary standards.

(c) PURPOSE OF PROJECTS.—In selecting medical centers for projects under subsection (a), the Secretary shall select projects to improve, replace, renovate, update, or establish facilities to achieve one or more of the following:

(1) Seismic protection improvements related to patient safety (or, in the case of a research facility, patient or employee safety).

(2) Fire safety improvements.

(3) Improvements to utility systems and ancillary patient care facilities (including such systems and facilities that may be exclusively associated with research facilities).

(4) Improved accommodation for persons with disabilities, including barrier-free access.

(5) Improvements at patient care facilities to specialized programs of the Department, including the following:

(A) Blind rehabilitation centers.

(B) Inpatient and residential programs for seriously mentally ill veterans, including mental illness research, education, and clinical centers.

(C) Residential and rehabilitation programs for veterans with substance-use disorders.

(D) Physical medicine and rehabilitation activities.

(E) Long-term care, including geriatric research, education, and clinical centers, adult day care centers, and nursing home care facilities.

(F) Amputation care, including facilities for prosthetics, orthotics programs, and sensory aids.

(G) Spinal cord injury centers.

(H) Traumatic brain injury programs.

(I) Women veterans' health programs (including particularly programs involving privacy and accommodation for female patients).

(J) Facilities for hospice and palliative care programs.

(d) REVIEW PROCESS.—(1) The Secretary shall provide that, before a project is submitted to the Secretary with a recommendation that it be approved as a project to be carried out under the authority of this section, the project shall be reviewed by a board within the Department of Veterans Affairs that is independent of the Veterans Health Administration and that is constituted by the Secretary to evaluate capital investment projects. The board shall review such project to determine the project's relevance to the medical care mission of the Department and whether the project improves, renovates, repairs, establishes, or updates facilities of the Department in accordance with this section.

(2) In selecting projects to be carried out under the authority provided by this section, the Secretary shall consider the recommendations of the board under paragraph (1). In any case in which the Secretary approves a project to be carried out under this section that was not recommended for such approval by the board under paragraph (1), the Secretary shall include in the report of the Secretary under subsection (g)(2) notice of such approval and the Secretary's reasons for not following the recommendation of the board with respect to that project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs for the Construction, Major Projects, account for projects under this section—

(1) $167,900,000 for fiscal year 2004; and

(2) $600,000,000 for fiscal year 2005.

(f) LIMITATION.—Projects may be carried out under this section only using funds appropriated pursuant to the authorization of appropriations in subsection (e), except that funds appropriated for advance planning may be used for the purposes for which appropriated in connection with such projects.

(g) REPORTS.—(1) Not later than April 1, 2005, the Comptroller General shall submit to the Committees on Veterans' Affairs and on Appropriations of the Senate and House of Representatives a report evaluating the advantages and disadvantages of congressional authorization for projects of the type described in subsection (b) through general authorization as provided by subsection (a), rather than through specific authorization as would otherwise be applicable under section 8104(a)(2) of title 38, United States Code. Such report shall include a description of the actions of the Secretary of Veterans Affairs during fiscal year 2004 to select and carry out projects under this section.

(2) Not later than 120 days after the date on which the site for the final project under this section for each such fiscal year is selected, the Secretary shall submit to the committees referred to in paragraph (1) a report on the authorization process under this section. The Secretary shall include in each such report the following:

(A) A listing by project of each such project selected by the Secretary under that section, together with a prospectus description of the purposes of the project, the estimated cost of the project, and a statement attesting to the review of the project under subsection (c), and, if that project was not recommended by the board, the Secretary's justification under subsection (d) for not following the recommendation of the board.

(B) An assessment of the utility to the Department of Veterans Affairs of that authorization process.

(C) Such recommendations as the Secretary considers appropriate for future congressional policy for authorizations of major and minor medical facility construction projects for the Department of Veterans Affairs.

(D) Any other matter that the Secretary considers to be appropriate with respect to oversight by Congress of capital facilities projects of the Department of Veterans Affairs.

SEC. 3. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND LEASES.

(a) PROJECT AUTHORIZATIONS.—The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Construction of a new bed tower to consolidate two inpatient sites of care in inner city Chicago at the West Side Division of the Department of Veterans Affairs health care system in Chicago, Illinois, in an amount not to exceed $98,500,000.

(2) Seismic corrections to strengthen Medical Center Building 1 of the Department of Veterans Affairs health care system in San Diego, California, in an amount not to exceed $48,600,000.

(3) A project for (A) renovation of all inpatient care wards at the West Haven, Connecticut, facility of the Department of Veterans Affairs health system in Connecticut to improve the environment of care and enhance safety, privacy, and accessibility, and (B) establishment of a consolidated medical research facility at that facility, in an amount not to exceed $50,000,000.

(4) Construction of a medical facility on available Federal land at the Defense Supply Center, Columbus, Ohio, in an amount not to exceed $90,000,000.

(5) Construction of a Department of Veterans Affairs-Department of Navy joint venture, comprehensive outpatient medical care facility to be built on the grounds of the Pensacola Naval Air Station, Pensacola, Florida, in an amount not to exceed $45,000,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2004 for the Construction, Major Projects, account $332,100,000 for the projects authorized in subsection (a).

(c) LIMITATION.—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2004 pursuant to the authorization of appropriations in subsection (b);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004 for a category of activity not specific to a project.

(d) AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.—The Secretary of Veterans Affairs may enter into leases as follows:

(1) For an outpatient clinic in Charlotte, North Carolina, in an amount not to exceed $3,000,000.

(2) For facilities for a multi-specialty outpatient clinic for the Veterans Health Administration and a satellite office for the Veterans Benefits Administration in Clark County, Nevada, at an annual lease amount not to exceed $6,500,000.

(3) For facilities authorized in section 4 at the site of the former Fitzsimons Army Medical Center, Aurora, Colorado, in an amount not to exceed $30,000,000.

SEC. 4. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS, FORMER FITZSIMONS ARMY MEDICAL CENTER, AURORA, COLORADO.

(a) AUTHORIZATION.—The Secretary of Veterans Affairs may carry out major medical facility projects under section 8104 of title 38, United States Code, at the site of the former

Fitzsimons Army Medical Center, Aurora, Colorado. Projects to be carried out at such site shall be selected by the Secretary and may include inpatient and outpatient facilities providing acute, sub-acute, primary, and long-term care services. The cost of projects under this section shall be limited to—

(1) an amount not to exceed a total of $300,000,000 if either direct construction or a combination of direct construction and leasing is selected by the Secretary under subsection (b); and

(2) no more than $30,000,000 per year in leasing costs if a leasing option is selected by the Secretary as the sole option under subsection (b).

(b) SELECTION OF OPTION.—The Secretary of Veterans shall select the option to carry out the authority provided in subsection (a) of either—

(1) direct construction by the Department of Veterans Affairs or a combination of direct construction and leasing; or

(2) leasing alone.

(c) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary of Veterans Affairs shall consult with the Secretary of Defense in carrying out this section. Such consultation shall include consideration of establishing a Department of Veterans Affairs-Department of Defense joint health-care venture at the site of the project or projects under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal years 2004, 2005, and 2006 for ''Construction, Major Projects'' for the purposes authorized in subsection (a).

(e) LIMITATION.—The projects authorized in subsection (a) may only be carried out using—

(1) funds appropriated for fiscal year 2004, 2005, or 2006 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 2004 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects, for fiscal year 2004, 2005, or 2006 for a category of activity not specific to a project.

(f) REPORT TO CONGRESSIONAL COMMITTEES.—After complying with applicable provisions of the National Environmental Policy Act of 1969, but not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on this section. The report shall include the following:

(1) Notice of the option selected by the Secretary pursuant to subsection (b) to carry out the authority provided by subsection (a).

(2) Information on any further planning required to carry out the authority provided in subsection (a).

(3) Other information of assistance to the committees with respect to such authority.

SEC. 5. LIMITATION ON DISPOSAL OF LAKESIDE DIVISION, DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES, CHICAGO, ILLINOIS.

(a) LIMITATION.—The Secretary of Veterans Affairs may not make a final disposal under section 8162 of title 38, United States Code, of the Lakeside Division facility of the Department of Veterans Affairs medical facilities in Chicago, Illinois, until the Secretary has entered into a contract for the construction project authorized by section 3(a)(1).

(b) DEFINITION.—For purposes of this section, the term ''disposal'', with respect to the Lakeside Division facility, includes entering into a long-term lease or sharing agreement under which a party other than the Secretary has operational control of the facility.

SEC. 6. PLANS FOR FACILITIES IN SOUTHERN NEW JERSEY AND FAR SOUTH TEXAS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop—

(A) a plan to establish an inpatient facility to meet hospital care needs of veterans who reside in southern New Jersey; and

(B) a plan for hospital care needs of veterans who reside in far south Texas.

(2) In developing the plans under paragraph (1), the Secretary shall, at a minimum, consider options using the existing authorities of section 8111 and 8153 of title 38, United States Code—

(A) to establish a hospital staffed and managed by employees of the Department, either in private or public facilities, including Federal facilities; or

(B) to enter into contracts with existing private facilities and private providers for that care.

(b) REPORTS.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on each plan under subsection (a) not later than January 31, 2004.

(c) DEFINITIONS.—In this section:

(1) The term ''far south Texas'' means the following counties of the State of Texas: Bee, Calhoun, Crockett, DeWitt, Dimmit, Goliad, Jackson, Victoria, Webb, Aransas, Duval, Jim Wells, Kleberg, Nueces, Refugio, San Patricio, Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr, Willacy, and Zapata.

(2) The term ''southern New Jersey'' means the following counties of the State of New Jersey: Ocean, Burlington, Camden, Gloucester, Salem, Cumberland, Atlantic, and Cape May.

SEC. 7. INCREASE IN MAJOR MEDICAL FACILITY CONSTRUCTION COST THRESHOLD.

Section 8104(a)(3)(A) of title 38, United States Code, is amended by striking ''$4,000,000'' and inserting ''$6,000,000''.

SEC. 8. STUDY AND REPORT ON FEASIBILITY OF COORDINATION OF VETERANS HEALTH CARE SERVICES IN SOUTH CAROLINA WITH NEW UNIVERSITY MEDICAL CENTER.

(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a study to examine the feasibility of coordination by the Department of Veterans Affairs of its needs for inpatient hospital, medical care, and long-term care services for veterans with the pending construction of a new university medical center at the Medical University of South Carolina, Charleston, South Carolina.

(b) MATTERS TO BE INCLUDED IN STUDY.—(1) As part of the study under subsection (a), the Secretary shall consider the following:

(A) Integration with the Medical University of South Carolina of some or all of the services referred to in subsection (a) through contribution to the construction of that university's new medical facility or by becoming a tenant provider in that new facility.

(B) Construction by the Department of Veterans Affairs of a new independent inpatient or outpatient facility alongside or nearby the university's new facility.

(2) In carrying out paragraph (1), the Secretary shall consider the degree to which the Department of Veterans Affairs and the university medical center would be able to share expensive technologies and scarce specialty services that would affect any such plans of the Secretary or the university.

(3) In carrying out the study, the Secretary shall especially consider the applicability of the authorities under section 8153 of title 38, United States Code (relating to sharing of health care resources between the Department and community provider organizations) to govern future arrangements and relationship between the Department and the Medical University of South Carolina.

(c) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary of Veterans Affairs shall consult with the Secretary of Defense in carrying out the study under this section. Such consultation shall include consideration of establishing a Department of Veterans Affairs-Department of Defense joint health-care venture at the site referred to in subsection (a).

(d) REPORT.—Not later than March 31, 2004, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study. The report shall include the Secretary's recommendations with respect to coordination described in subsection (a), including recommendations with respect to each of the matters referred to in subsection (b).

SEC. 9. NAME OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITY, CHICAGO, ILLINOIS.

The Department of Veterans Affairs health care facility located at 820 South Damen Avenue in Chicago, Illinois, shall after the date of the enactment of this Act be known and designated as the ''Jesse Brown Department of Veterans Affairs Medical Center''. Any reference to such facility in any law, map, regulation, document, paper, or other record of the United States shall be considered to be a reference to the Jesse Brown Department of Veterans Affairs Medical Center.

SEC. 10. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, NEW LONDON, CONNECTICUT.

The Department of Veterans Affairs outpatient clinic located in New London, Connecticut, shall after the date of the enactment of this Act be known and designated as the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic''. Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the John J. McGuirk Department of Veterans Affairs Outpatient Clinic.

SEC. 11. OFFICE OF RESEARCH OVERSIGHT IN VETERANS HEALTH ADMINISTRATION.

(a) STATUTORY CHARTER.—(1) Chapter 73 of title 38, United States Code, is amended by inserting after section 7306 the following new section:

''§ 7307. Office of Research Oversight

''(a) REQUIREMENT FOR OFFICE.—(1) There is in the Veterans Health Administration an Office of Research Oversight (hereinafter in this section referred to as the 'Office'). The Office shall advise the Under Secretary for Health on matters of compliance and assurance in human subjects protections, animal welfare, research safety, and research impropriety and misconduct. The Office shall function independently of entities within the Veterans Health Administration with responsibility for the conduct of medical research programs.

''(2) The Office shall—

''(A) monitor, review, and investigate matters of medical research compliance and assurance in the Department with respect to human subjects protections and animal welfare; and

''(B) monitor, review, and investigate matters relating to the protection and safety of human subjects, research animals, and Department employees participating in medical research in Department programs.

''(b) DIRECTOR.—(1) The head of the Office shall be a Director, who shall report directly to the Under Secretary for Health (without delegation).

''(2) Any person appointed as Director shall be—

''(A) an established expert in the field of medical research, administration of medical research programs, or similar fields; and

''(B) qualified to carry out the duties of the Office based on demonstrated experience and expertise.

''(c) FUNCTIONS.—(1) The Director shall report to the Under Secretary for Health on matters relating to protections of human subjects and laboratory animals under any applicable Federal law and regulation, the safety of employees involved in Department medical research programs, and suspected misconduct and impropriety in such programs. In carrying out the preceding sentence, the Director shall consult with employees of the Veterans Health Administration who are responsible for management and conduct of Department medical research programs.

''(2) The matters to be reported by the Director to the Under Secretary under paragraph (1) include the following:

''(A) Lack of required integrity of content, validity of approach, and ethical conduct of employees in Department medical research programs.

''(B) Allegations of research impropriety and misconduct by employees engaged in medical research programs of the Department.

''(3)(A) When the Director determines that such a recommendation is warranted, the Director may recommend to the Under Secretary that a Department research activity be terminated, suspended, or restricted, in whole or in part.

''(B) In a case in which the Director reasonably believes that activities of a medical research project of the Department place human subjects' lives or health at imminent risk, the Director shall direct that activities under that project be immediately suspended or, as appropriate and specified by the Director, be limited.

''(d) GENERAL FUNCTIONS.—(1) The Director shall conduct periodic inspections and reviews, as the Director determines appropriate, of medical research programs of the Department. Such inspections and reviews shall include review of required documented assurances.

''(2) The Director shall observe external accreditation activities conducted for accreditation of medical research programs conducted in facilities of the Department.

''(3) The Director shall investigate allegations of research impropriety and misconduct in medical research projects of the Department.

''(4) The Director shall submit to the Under Secretary for Health, the Secretary, and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on any suspected lapse, from whatever cause or causes, in protecting safety of human subjects and others, including employees, in medical research programs.

''(5) The Director shall carry out such other duties as the Under Secretary for Health may require.

''(e) SOURCE OF FUNDS.—Amounts for the activities of the Office, including its regional offices, shall be derived from amounts appropriated for the Veterans Health Administration for Medical Care.

''(f) ANNUAL REPORT.—Not later than March 15 each year, the Director of the Office shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Office during the preceding calendar year. Each such report shall include, with respect to that year, the following:

''(1) A summary of reviews of individual medical research programs of the Department completed by the Office.

''(2) Directives and other communications issued by the Office to field activities of the Department.

''(3) Results of any investigations undertaken by the Office during the reporting period consonant with the purposes of this section.

''(4) Other information that would be of interest to those committees in oversight of the Department medical research program.

''(g) MEDICAL RESEARCH.—For purposes of this section, the term 'medical research' has the meaning given such term in section 7303(a)(2) of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306 the following new item:

''7307. Office of Research Oversight.''.

(b) CONFORMING AMENDMENT.—Section 7303 of title 38, United States Code, is amended by striking subsection (e).

(c) COMPTROLLER GENERAL REPORT.—(1) The Comptroller General shall conduct a study to assess—

(A) the effects of the establishment by law of the Office of Research Oversight in section 7307 of title 38, United States Code, as added by subsection (a);

(B) the effects of the specification by law of the functions of that Office; and

(C) improvements in the conduct of ethical medical research in the Veterans Health Administration.

(2) Not later than January 1, 2006, the Comptroller General shall submit to the Committees on Veterans' Affairs of the House and Senate a report on the study conducted under paragraph (1). The Comptroller General shall include in the report such recommendations for legislation and administrative action as the Comptroller General considers appropriate.

(d) REPORT BY SECRETARY OF VETERANS AFFAIRS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans Affairs' of the Senate and House of Representatives a report setting forth the results of the implementation of section 7307 of title 38, United States Code, as added by subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from Nevada (Ms. BERKLEY) each will control 20 minutes.

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

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

Mr. Speaker, I am pleased that the House is today considering H.R. 1720, as amended, the Veterans Health Care Facilities Capital Improvement Act. Enactment of this measure would be a significant step in addressing the problem of crumbling and substandard health care facilities for our Nation's veterans.

I want to just say at the outset how very delighted and pleased I am that the gentleman from Connecticut (Mr. SIMMONS) is here. As the chairman of the Subcommittee on Health and the prime sponsor of this bill, he has worked many, many hours in crafting this legislation. I want to really pay him the highest compliment for the extraordinarily good work he did in writing this legislation. I thank the gentleman for his leadership on this. I would also like to thank my friends on the other side of the aisle for their good, hard work. This is a bipartisan bill that we present to the House today, and I hope it will get the full support and assent of this body.

Mr. Speaker, most VA hospitals, clinics, nursing homes, and research facilities have ongoing needs for maintenance, repair, and modernization to promote patient and employee safety and provide a higher standard of care for our Nation's veterans. For example, hundreds of millions of dollars are needed to address problems at many VA facilities that could suffer severe damage in the event of an earthquake. However, projects to address these and other deficiencies have been put on the shelf while VA contemplates and completes its CARES process.

The Department of Veterans Affairs is currently undertaking, as I think many Members know, a market-based national assessment to determine whether its present health care facilities meet current and future veterans' health care needs. The VA's process for achieving this goal, called the Capital Asset Realignment for Enhanced Services, or CARES, is intended to produce a national plan which the Secretary will then approve or disapprove by the end of the year. Members, I am sure, or at least some Members, are aware that while the VA has an aggressive schedule for completing the planning process, the implementation of this plan will take many years to complete. In the meantime, a number of pressing construction needs have been identified.

The committee has been vigilant to avoid authorizing projects at facilities that might not be needed to serve the future needs of our veterans. All of the projects authorized by our committee in recent authorization measures would serve veterans for many years after they have been completed. Similarly, the projects authorized in this bill would improve health care for veterans for 20 years or more and are a wise and, we believe, worthy investment for this Nation to make on behalf of our veterans.

Let me just say, Mr. Speaker, there are a number of additions to this bill that were made precisely because Members came to us and made very persuasive argument as to why they need to be included. The gentleman from Colorado (Mr. HEFLEY) and the gentleman from Colorado (Mr. BEAUPREZ), a member of the committee, really pushed hard on the Fitzsimons project. That is included in here. The gentleman from New Jersey (Mr. LOBIONDO) from my own State made a very strong estimate and gave us documentation for a study. That is included in here. There are others that came to us, again made their cases, cogent cases that they were; and those have been included in this authorization measure.

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The Department of Veterans Affairs is currently undertaking a market-based national assessment to determine whether its present health care facilities meet current and future veterans' health care needs. The VA's process for achieving this goal, called Capital Asset Realignment for Enhanced Services, or CARES, is intended to produce a national plan which the Secretary will then approve or disapprove by the end of this year. While VA has an aggressive schedule for completing the planning process, the implementation of this plan will take many years to complete. In the meantime, a number of pressing construction needs have been identified.

The VA Committee has been vigilant to avoid authorizing projects at facilities that might not be needed to serve the future needs of veterans. All of the projects authorized by our committee in recent authorization measures would serve veterans for many years after they have been completed. Similarly, the projects authorized in this bill would improve health care for veterans for 20 years or more, and are a wise and worthy investment for this Nation to make on behalf of veterans.

Mr. Speaker, we are coming to a crossroads in the pattern of funding for VA health care facilities. A consultant's report in June 1998 concluded that VA should be spending (at a minimum) from 2 percent to 4 percent of its ''plant replacement value'' on upkeep and replacement of its health care facilities. The value of VA facilities was estimated to be $35 billion in 1998; thus, VA should be spending from $700 million to $1.4 billion each year to keep pace with its capital needs. Sadly, VA only received $213 million in VA construction funding for fiscal year 2003 and only requested $421 million for fiscal year 2004.

When the Undersecretary for Health submitted his admittedly incomplete CARES plan to the Secretary's CARES commission earlier this year, it called for a minimum of $3.5 billion in new construction over the next 5 years. I say the plan was incomplete because it excluded funding for projects that would enhance VA's ability to provide veterans with long-term care. The VA Committee has called on the CARES Commission to address this serious shortcoming. Nevertheless, a plan to spend $3.5 to $4 billion over the next 5 years means that Congress will need to appropriate $700 to $800 million every year during that period. Mr. Speaker, even though the deficit outlook for the next several years is not good, this is an obligation that has been put off long enough. The failure to begin addressing this huge backlog in renovation and modernization projects can only lead to inefficiency and inferior care for veterans in the future.

Mr. Speaker, H.R. 1720, as amended, would authorize the Department of Veterans Affairs to improve, establish, restore or replace VA health care facilities where necessary. The Committee decided in the last Congress that there is a demonstrable need to provide a more flexible and responsive authorization process to address the overwhelming backlog of construction projects, and this bill continues with that approach.

Under this bill, the Secretary would be authorized to approve individual facility projects, based on the decisions of a capital investments board that must carefully and objectively consider each proposed construction project. The bill provides criteria to be used by the board that would place a premium on projects to protect patient safety and privacy, improve seismic protection, and provide barrier-free accommodations. It would also emphasize improving VA patient care facilities areas of particular concern, such as specialized care programs, in order to meet the contemporary standard of care veterans deserve and need.

H.R. 1720 would require the Secretary to report his actions on construction to this Committee and to the Committee on Appropriations, and would mandate a review of the delegated-project approach by the General Accounting Office, to ensure this is an effective mechanism to advance VA medical construction during and after the CARES process.

The bill also would authorize construction of a specific set of urgent major medical projects as follows: Clark County, NV—the lease of a multi-specialty outpatient clinic and Veterans Benefits Administration satellite office at an annual rent not to exceed $6,500,000; Columbus, OH—$90,000,000 to construct a new VA medical center; West Haven, CT—$50,000,000 to renovate inpatient wards and research facilities at the Wet Haven VA medical center; Chicago, IL—$98,500,000 to consolidate inpatient care in a new bed tower at the West Side Division; San Diego, CA—$48,600,000 for seismic corrections to Building 1 at the San Diego VA medical center; and Pensacola, FL—$45,000,000 to construct a joint-venture outpatient clinic at the Pensacola Naval Air Station. The bill would require the Secretary to move forward on these projects first before awarding construction contracts under the general construction delegation provided by the bill.

Mr. Speaker, this bill would authorize appropriations of $500 million in fiscal year 2004 and $600 million in fiscal year 2005 to accommodate construction projects under the various authorities provided. Additionally, the bill would authorize the appropriation of $300 million over 3 years for the replacement VA medical center near Denver CO, at the former Fitzsimons site.

Mr. Speaker, as I mentioned, H.R. 1720, as amended, includes the provisions of H.R. 116, a bill to authorize a joint VA–Air Force health care facility to be located on the grounds of the ''New Fitzsimons'' campus of the University of Colorado Health Sciences Center, in Aurora, CO. The bill would require the Secretary, after consulting with the Secretary of Defense, to decide how to replace the 57-year-old Denver medical center with a new Federal Regional Medical Center in Aurora. There is a unique opportunity at this location to enhance VA–DOD sharing by jointly constructing or leasing a premier health treatment facility as a joint venture of the VA, the Department of the Air Force, and the University. We certainly expect that both the Air Force and the VA will find a way to execute this plan in a manner that advances the interests of the American taxpayer and the beneficiaries served by the two Departments.

I want to commend Chairman JOEL HEFLEY and Representative BOB BEAUPREZ, a Member of the VA Committee, for spurring this project forward. We would not be considering this measure on the floor of the House today without their hard work and individual efforts to help make this project a reality.

H.R. 1720 would also require VA to conduct a study and report on the feasibility of constructing a new medical center for veterans in Charleston, SC, and a study for meeting the inpatient hospitalization needs of southern New Jersey veterans. The Committee appreciates the work of Mr. BROWN, the chairman of our Subcommittee on Benefits, and Mr. LOBIONDO, the distinguished chairman of the Subcommittee on Coast Guard and Maritime Transportation, for their insight in crafting these two provisions.

The final measures in the bill, Mr. Speaker, would designate the Department of Veterans Affairs Outpatient Clinic in New London, CT, as the John J. McGuirk Department of Veterans Affairs Outpatient Clinic, and the VA Medical Center at 820 S. Damon Street in Chicago, IL, the Jesse Brown Veterans Affairs Medical Center.

Our bipartisan bill would also honor the late Jesse Brown, former Secretary of Veterans Affairs, for his exemplary service to his country as a combat-wounded U.S. Marine Corps veteran of the Vietnam war and dedicated leader of the Department of Veterans. Mr. Brown enlisted in the Marine Corps in 1963 and was seriously wounded in Vietnam. Mr. Brown's career in veterans' advocacy spanned his entire remaining life. He served with distinction in the Clinton administration as the third Secretary of Veterans Affairs, and is buried at Arlington National Cemetery.

Naming the West Side VA Medical Center after Jesse Brown would appropriately memorialize his accomplishments and commitment to improving the quality of life of all veterans.

The final provision in this bill adds a new degree of accountability to the VA medical research program. The provision is the result of efforts by two of the Committee's Subcommittee chairmen, Mr. BUYER and Mr. SIMMONS. Their proposal is supported by Ms. HOOLEY and Mr. RODRIGUEZ, their respective ranking members.

The language of section 11, which is taken from H.R. 1585 as revised by our Subcommittee on Health requires VA to maintain a permanent and independent research compliance and assurance office. While establishment of this office may not provide a complete shield against possible future abuses, it does send a clear message that the Congress expects compliance with rules already in place to assure protection of human subjects who participate in research sponsored by VA.

Finally, I want to thank the Committee's ranking member, LANE EVANS, for his support of this legislation, and for the work of the chairman and ranking member of the Health Subcommittee, ROB SIMMONS and CIRO RODRIGUEZ, respectively, for considering this bill in a timely fashion.

Mr. Speaker, I urge my colleagues to support H.R. 1720, as amended.

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

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

Mr. Speaker, I rise in support of H.R. 1720. I would like to thank VA Committee Chairman SMITH and Health Subcommittee Chairman SIMMONS for working closely with all of us on this side of the aisle on this important issue. I also want to thank our ranking member, the gentleman from Illinois (Mr. EVANS), for his steadfast support and hard work on this legislation. I also want to thank Chairman SMITH and the entire staff for working with us to bring this measure before the House for consideration today.

This bill contains authorizations for many worthwhile, major medical construction projects.

□ 1245

Congress has put a virtual stop to appropriations for major medical construction projects over the last 4 years since the General Accounting Office released a report that suggested the VA was spending too much money maintaining buildings that were not being used to serve veterans.

Since fiscal year 2000, Congress has appropriated $121 million for major medical projects. That is about $6 million less than experts recommend for maintaining and enhancing capital assets. But while spending for major medical construction projects has declined, the number of veterans moving into States like my own, the State of Nevada, continues to explode, and the need for expanded facilities is not being met.

Southern Nevada's veterans population is one of the fastest glowing in the Nation, and is getting larger every day. The VA predicts that the number of annual visits by veterans in the Las Vegas Valley to their primary health care clinic will rise from 200,000 to more than half a million by 2010, that is a mere 7 years from now, and the number of hospital beds needed to serve the veterans in my community will increase by over 50 percent.

The VA is already struggling to address and meet the current demands of the VA health care structure in the Las Vegas Valley. Last year, 1,500 southern Nevada veterans were sent to neighboring States because they could not provide the needed services locally. This is an unfair burden on these veterans and their families. They should not have to travel hundreds much miles away for care.

In addition, due to the decrepit conditions and structural deficiencies, the VA evacuated the Guy Clinic, only 5 years old, forcing veterans to rely on a string of temporary clinics scattered across the Las Vegas Valley. Imagine, if you will, what it is like for an 80-year-old veteran waiting in the desert heat, sometimes up to 110 degrees, to be shuttled from clinic to clinic to receive the health care he needs.

For example, a veteran who needs a CT scan may have to shuttle from a temporary site which houses the CT scan technology to then another site to obtain a prescription for a controlled narcotic that he needs, and then to a third site for mental health services.

Female veterans who need mammograms have to shuttle to different clinics just for that one particular service.

As one 81-year-old World War II veteran described the situation, ''You are going from one place to another and it gets confusing. Don't our veterans deserve a permanent facility to meet all their health care needs?''

In short, southern Nevada is facing a veterans health care crisis. At the time H.R. 1720 was introduced and passed by the Committee on Veterans' Affairs, the VA recognized Las Vegas was in need of a new, multispecialty outpatient clinic. H.R. 1720 authorized $6.5 million for annual leases for that clinic. However, in the time since the legislation has been acted on by the committee, the Department of Veterans Affairs released the CARES document which proposed $4.6 billion worth of construction, reflecting only a portion of the growing backlog and veterans growing demand for services.

The VA's average healthcare facility is about 52 years old, so updates are essential. The failure to make investments has put the VA way behind in addressing such urgent needs as seismic corrections, renovations to address patient safety, and privacy concerns and problems that threaten VA's accreditation by outside quality assurance agencies.

To address the concern about underutilized buildings, the VA embarked upon a process to identify veterans needs for health care for the next 20 years. The CARES plan calls for the construction of a full-scale medical facility in Las Vegas, including a full-service patient care hospital, an outpatient clinic and a comprehensive long-term care nursing facility in Las Vegas.

In light of the VA's new plan for a veterans health care facility, I ask the committee to continue to work with me to update the authorization level to reflect the demands in southern Nevada and to allocate funds for a full-service VA medical complex.

America's veterans served our Nation, and now we must honor our commitment to those brave men and women. Providing high-quality health care is part of keeping our promise to these heroes and sends an important message to our troops now deployed at home and abroad in defense of our Nation. These future veterans, many of whom will soon call Nevada home, will also one day be eligible for VA care. Investing now will ensure that we will be able to serve the health care needs of our veterans, today and in the future.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Indiana (Mr. BUYER), who wrote section 11 dealing with human research protection.

(Mr. BUYER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. BUYER. Mr. Speaker, I rise in support of this bill and thank the chairman for including my bill to ensure human subject protection in research.

Mr. Speaker, today we are considering H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act, legislation designed to authorize the Secretary of Veterans Affairs to carry out major facilities construction projects to improve, renovate, replace, update, and establish care facilities across the Department of Veterans Affairs.

One provision I would like to draw your attention to is section 11 of the bill. Section 11 guarantees that there is an independent oversight body within the Veterans Health Administration, Department of Veterans Affairs to oversee research compliance and assurance.

This provision addresses the important issue of human subjects protection in VA medical research. Since 1999 several hearings have been held by the House Veterans' Affairs Subcommittee on Oversight and Investigations. I compliment the work of then Subcommittee Chairman Terry Everett of Alabama, who also worked to ensure that necessary actions are taken to assure that our Nation's most vulnerable veterans are protected and not subjected to harm.

This provision is the final language that was worked out by my Subcommittee on Oversight and Investigations and Subcommittee Chairman Simmons of the Health Subcommittee and it reflects the original intent of H.R. 1585, a bill I introduced because I wanted to ensure that our Nation's most vulnerable veterans are protected and not in any way harmed by the very system whose mission it is to safeguard their safety and well being.

In particular, this bill does the following:

Establishes an independent office to oversee research compliance and assurance;

Provides that the new office counsels the Under Secretary for Health on all matters related to the protection of human research subjects, research misconduct and impropriety, laboratory animal welfare; ethical conduct of research; and research safety;

That the office shall investigate allegations of research misconduct and impropriety; suspend or restrict research to ensure the safety, and ethical treatment of human subjects; preserve the integrity and validity of research; prevent mistreatment of laboratory animals used in research; and assure compliance in the conduct of research;

The director of the office shall conduct periodic inspections at research facilities; observe external accreditation site visits; investigate allegations of research misconduct and improprieties;

It requires the immediate notification of the Under Secretary for Health when endangerment of human research subjects is evident or suspected and requires that Congress be notified when research misconduct or impropriety has been discovered;

This bill provides that funding for the new office would be independent from the Office of Research and Development; and

Finally, this bill mandates that the Comptroller General of the United States conduct a study of the effectiveness of the new office

and submit a report to Congress by January 1, 2006.

This legislation has strong bipartisan support. I would like to thank all the cosponsors of the original bill. In particular, I would like to thank Chairman CHRIS SMITH and Ranking Member LANE EVANS and the Ranking Member of my Subcommittee, DARLENE HOOLEY for their cosponsorship and support. I ask my colleagues to support H.R. 1720 and strengthen VA research programs so our veterans are never placed in a harmful environment.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Connecticut (Mr. SIMMONS), the prime sponsor of this legislation and the chairman of our Subcommittee on Health.

(Mr. SIMMONS asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. SIMMONS. Mr. Speaker, I thank the chairman and the ranking members of the Committee on Veterans' Affairs for all of their hard work on this legislation. I also thank my ranking member on the Health Subcommittee, the gentleman from Texas (Mr. RODRIGUEZ), for all of his work. This legislation constitutes a bipartisan effort to fund medical health care facilities for our Nation's veterans.

When I first assumed the chair of the Committee on Veterans' Affairs Subcommittee on Health, I was committed to providing the resources necessary to improve these health care facilities for our veterans, and this has been a bipartisan enterprise for the past 9 months. This legislation is the fruit of that work, and I think this legislation speaks very well for the bipartisan effort that we made on the subcommittee and the committee.

Among other things, this legislation would authorize specific construction projects, such as in Clark County, Nevada, where we just heard about the multispecialty outpatient clinic; in Columbus, Ohio, a new VA medical center; and in West Haven, Connecticut, renovations of a facility that was first built in 1917.

Mr. Speaker, I am proud of the fact that the State of Connecticut built this facility in 1917 as a tuberculosis and a neuropsychiatric hospital, and I am proud of the fact it is affiliated with Yale University's School of Medicine, which is one of the premier schools of medicine in the United States. But the question we have to address to ourselves, not only with this facility but these other facilities, is how efficient are they in today's day and age? How is the morale of VA employees, when they work in facilities that are almost 100 years old? How can we clean them and maintain the standards of sanitation that we want as we treat our veterans population? How can old hospital wards become more user-friendly and accommodate the new technologies for dealing with our veterans? And is there enough renovated space for these purposes?

That is why we are moving forward to authorize certain construction projects, such as in Chicago, Illinois, consolidating inpatient care in a new bed tower in the West Side Division; or in San Diego, California, doing almost $50 million worth of seismic corrections to Building I at the VA medical center; or in Pensacola, Florida, a joint-venture outpatient clinic at the Pensacola Naval Air Station where the Veterans Administration and the Department of Defense are sharing resources and sharing technologies to come up with a joint facility, something that saves our taxpayers a tremendous amount of money.

In the aggregate, Mr. Speaker, this bill would authorize appropriations of $500 million in fiscal year 2004 and $600 million in fiscal year 2005 to accommodate the construction projects under the various authorities provided.

One of these major construction projects, and you will hear from some of our other Members shortly, is the ''New Fitzsimons'' Campus of the University of Colorado Health Sciences Center. What the bill would require is that the Secretary of Defense and the Veterans Administration work together to create a new medical center in that area to serve our veterans population.

We have also authorized a joint project in Charleston, South Carolina, where we will do a feasibility study for a new medical center, I commend my colleague, the gentleman from South Carolina (Mr. BROWN) for his work on that project. And also an inpatient hospitalization needs study for southern New Jersey, something that my colleague, the gentleman from New Jersey (Mr. LOBIONDO), has been involved with.

So as we work our way through the details of this legislation, Mr. Speaker, it should become clear that this is a joint effort and a joint product by all members of the Committee on Veterans' Affairs and the Subcommittee on Health to come up with a hospital authorization bill that serves the needs of all of our veterans, north and south, east and west, nationwide.

Mr. Speaker, this legislation we are voting on today will help us improve, upgrade and even replace VA facilities in specialized areas of concern, such as spinal cord injury care, hemodialysis, long term care and medical research. Our bill also gives the VA Secretary flexibility to move forward on both high priority projects and the CARES process together. So this is a compromise bill and one that all Members can support.

This bill would also improve protection and safety of VA medical research programs. VA research is internationally recognized and has made important contributions in virtually every area of medicine and health. But it still needs watchful oversight. I thank the gentleman from Indiana, Mr. BUYER, for his leadership in crafting these provisions as part of this legislation, which I strongly support, and I thank our Full Committee Chairman for agreeing to move this measure forward as a part of our construction bill.

Mr. Speaker, this legislation would also designate the Department of Veterans Affairs Outpatient Clinic in New London, Connecticut, the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic''.

I am very pleased that our bill would memorialize the life and work of Mr. John J. McGuirk of Connecticut. John was active in promoting improved care and more available VA clinics in his beloved State of Connecticut. He was a role model to many of us in the veterans' community, and was particularly committed to working on behalf of disabled and elderly veterans—those with the greatest need for ready access to VA health care. His death in 1999 was a loss to all the veterans of my State.

John J. McGuirk, a native of the Constitution State, enlisted in the United States Navy in World War II. He served as an enlisted man in the dangerous occupation of salvage diver. Hazarding death and injury every day of his Navy service, Mr. McGuirk worked across the South Pacific from Pearl Harbor to Manila, Philippines. He served aboard the salvage ship, USS *Laysan Island*, in clearing war devastation in Manila Bay. John McGuirk was decorated with the Philippines Liberation Medal, the American Theatre Medal, the Asiatic Pacific Theatre Medal and the World War II Victory Medal.

When Mr. McGuirk's obligation to the United States Navy was discharged at the war's end, his personal obligation to his country and fellow veterans endured and became his lifelong commitment.

Mr. McGuirk's advocacy resulted in VA activating a system of community-based clinics across the State, providing primary care to thousands of veterans. John McGuirk played an instrumental role in VA's opening of the community clinic on the grounds of the U.S. Coast Guard Academy in New London.

John actively served in Post Number Nine of the American Legion of Connecticut for the entirety of his adult life, including two stints as Post Commander, as well as Finance Officer and Service Officer. He was also a member of the Disabled Veterans of America and of U.S. Submarine Veterans, Inc.

I am proud to promote this effort to memorialize the name of a good man, a war veteran and a man of peace, John J. McGuirk of Connecticut. This gesture is but a token of the esteem and affection we hold for him and his lasting contribution to our State and his service to our veterans.

Mr. Speaker, I strongly urge my colleagues to support this bill.

Ms. BERKLEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. EVANS), the ranking member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 1720, as amended. I want to thank the gentleman from New Jersey (Chairman SMITH), our Subcommittee on Health chairman, the gentleman from Connecticut (Mr. SIMMONS), and the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), for allowing me the time to speak on this bill.

One provision that I am particularly pleased that the bill includes language that would rename the West Side division of VA Chicago after the Honorable Jesse Brown. The late Honorable Jesse

Brown served as Secretary for Veterans Affairs and was a strong advocate in our budgetary battles at that time in the Clinton Administration. As Secretary, Jesse made good on his promise of putting veterans first. Sadly, he left us much too soon after a struggle with Lou Gehrig's disease. It is fitting that we rename the West Side division of VA Chicago in his name.

This bill would also give Congress and the VA an opportunity to reinvigorate VA's flagging major medical construction programs. VA is at a critical juncture, where it must make billions of dollars worth of improvements to ensure its ability to provide modern, high-quality and efficient health care services.

Mr. Speaker, this is a good bill. I thank the chairman of the full committee for getting it through, and, again, for the way we work together.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to my good friend and colleague, the gentleman from Nevada (Mr. GIBBONS), and thank him for his work on behalf of the $6.5 million lease for the outpatient clinic in his area.

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

Mr. GIBBONS. Mr. Speaker, I want to thank the chairman of the committee for yielding me time.

No doubt all of us in this Chamber realize and recognize the fact that our veterans risk their lives for our great Nation, and especially for the freedoms we all enjoy. We owe them much. Today, we take yet another step toward providing them with the health care services they deserve.

For example, H.R. 1720 authorizes funding for a Veterans Administration medical clinic in Clark County, Nevada, allowing the VA to lease space and provide desperately needed health care services to one of the fastest growing veterans populations in the country.

While this authorization best serves the short-term needs of Nevada's veterans, the long-term needs recognized by myself and Veterans Administration Secretary, Anthony Principi, call for the construction of a permanent, full-service veterans hospital in southern Nevada. Until this long-term goal is realized, the establishment of a medical clinic in Clark County will provide critical health care services to those veterans in southern Nevada.

I applaud my colleagues for bringing this bill to the floor, and remain committed to providing our veterans with the best health care services we can afford.

Ms. BERKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentlewoman, sometimes not so gentle, for yielding me time.

In fact, I thank the not-so-gentle woman for fighting for these facilities in her district. She has fought long and hard, and this is just one of the fruits. She has done a tremendous job.

I want to thank the chairman of the full committee and chairman of the Subcommittee on Health, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Connecticut (Mr. SIMMONS) for creating the environment on our committee that we could talk about these issues and work towards solving them without partisan rancor. I sincerely appreciate the efforts by the majority side on these bills.

I too rise in support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. I think it goes without saying that if the VA is to provide excellent health care, it must have excellent health facilities. We simply cannot allow our veterans and our VA employees to work and be treated in buildings that are unsafe.

Another such building on the list that you have heard is the Medical Center Building Number 1 in the VA health care system in San Diego, the medical facility used by veterans in all of San Diego and in my congressional district.

This building is in desperate need of seismic corrections, including new exterior bracing enhancements to the existing seismic structures, with an estimated cost of almost $50 million. Not an insignificant sum—but the cost of not doing this project would be much higher in real human lives. The VA has identified more than 60 projects that require seismic fortification.

□ 1300

We cannot continue to turn our heads away while VA patients and employees are in harm's way.

So I compliment all of those who have worked on this, and I urge my colleagues to support H.R. 1720.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to my good friend and colleague, the gentleman from Florida (Mr. MILLER), and thank him because he was very instrumental in helping us work on the language that provides $45 million for an outpatient clinic in Pensacola. I want to thank him for that outstanding work he did.

Mr. MILLER of Florida. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I do rise today in full support of H.R. 1720, as amended, and thank our full committee chairman, the gentleman from New Jersey (Mr. SMITH) and our Subcommittee on Health chairman, the gentleman from Connecticut (Mr. SIMMONS), whom we have already heard from today, for their leadership and their efforts to bring this bill to authorize major medical construction to final passage today. This is a good bill, Mr. Speaker, truly a bipartisan compromise, as we have already heard, and one that deserves the full support of each and every Member on the House floor.

Mr. Speaker, I represent the first district of Florida, an area of record growth and a high concentration of active duty servicemembers, military retired families, and veterans. This bill, as amended, provides a critical and important first step to providing veterans and the military communities that I serve in northwest Florida with state-of-the-art health care in a new, combined Navy-VA clinic in Pensacola.

In VA's budget submission for the fiscal year 2004, the Pensacola facility is described as ''obsolete'' and ''less than half the required space for the current and future workload.'' This description does not paint the true picture of a crowded and totally inadequate facility. The time to move forward on a new, combined facility is now. Our bill sets the stage for that progress on behalf of veterans in my district.

I wish to acknowledge the effort of Julie Catellier, the director of the VA Biloxi and Pensacola facilities, and Captain Richard Buck of the Pensacola Naval Hospital for their creative and tenacious work and cooperation to provide a state-of-the-art VA facility and improve the quality of care for our veterans and military families.

A year ago, the director of the VA Gulf Coast Health Care System and the commanding officer of the naval hospital in Pensacola coauthored an innovative DOD–VA joint business plan. The essential groundwork has been laid; and H.R. 1720, as amended, would authorize a $45 million health care facility as a joint venture between DOD and VA.

Mr. Speaker, I urge strongly that my colleagues support this important legislation for not only the veterans in my district, but for others across the Nation.

Ms. BERKLEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman from Nevada for yielding me this time.

I rise in support of H.R. 1720, the Veterans Health Care Improvement Act. Incorporated in this legislation is a bill to rename the health care facility of the Department of Veterans Affairs located at 820 South Damen Avenue in Chicago, Illinois, as the ''Jesse Brown Department of Veterans Affairs Medical Center.''

I am pleased to have introduced this legislation with the ranking member of the Committee on Veterans' Affairs, the gentleman from Illinois (Mr. EVANS.) This legislation is supported by the veterans community and all of my colleagues in the Illinois delegation.

The late Honorable Jesse Brown was sworn in by President Clinton as the Secretary of Veterans Affairs on January 22, 1993. Secretary Brown directed the Federal Government's second largest Department, responsible for a nationwide system of health care services, benefits, programs, and national cemeteries for America's more than 26 million veterans. Under Secretary Brown's leadership, the VA expanded

benefits for veterans who were prisoners of war or were exposed to agent orange, radiation, or mustard gas. He successfully worked for the enactment of laws authorizing the VA to pay compensation for those with undiagnosed illnesses from the Persian Gulf War. His vision and commitment led to improved technology and redesigned work processes in an effort to reduce the backlog of veterans benefit claims. His leadership led to the first national summit meeting on homeless veterans. Out of the summit, the VA began to award grants to groups that aid the homeless and added homeless programs to medical centers.

Secretary Brown understood the plight of veterans as well as anyone because he was a veteran. He was a Marine who was wounded in combat in 1965 while patrolling in Vietnam. He was a true patriot, giving his best on behalf of his country. His work as executive director of the Disabled American Veterans prepared him for the challenges that he would confront at the VA. And let me add that his education at Chicago City College, Roosevelt University in Chicago, and Catholic University in Washington, D.C. helped to prepare him for his later success in life.

Perhaps Secretary Brown's greatest accomplishments would be that he was a family man, a man of integrity, and a father. The honor that we bestow on him by renaming the VA facility after him is symbolic in nature, but substantive in reality for the lives of the people he touched. He gave the best of himself in service to others. Now we say thank you.

Finally, Mr. Speaker, I want to thank the members of the Committee on Veterans' Affairs for moving this legislation. I personally happen to know several members of Secretary Brown's family, a professor from Roosevelt University, his mother, his sister and brother-in-law, the recently retired superintendent of police in Chicago, Terry Hilliard; and I know that they are all proud of his accomplishments and appreciate this recognition and would want to extend their thanks to the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. HOBSON) and thank him for his work on the medical center, a $90 million authorization that he worked so hard to procure.

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

Mr. HOBSON. Mr. Speaker, I first want to thank the distinguished chairman and the distinguished subcommittee chairman and ranking member for inclusion of this provision in the bill. This was a bill initially sponsored by me and the gentleman from Texas (Mr. ORTIZ), and we have included his facility. I also should note that it was sponsored by the other two members of the Ohio delegation from Columbus, Ohio, the gentleman from Ohio (Mr. TIBERI) and the gentlewoman from Ohio (Ms. PRYCE).

Mr. Speaker, I rise in strong support of H.R. 1720, which authorizes the Secretary of Veterans Affairs to carry out major medical facility construction projects. I rise not only as a veteran, but as a member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations that helps determine the funding priorities of the Department of Veterans Affairs.

However, no matter which hat I am wearing, I can see clearly that something needs to be done for the ever-increasing veteran population in central Ohio. One provision contained in this very important act will help central Ohio take a huge step toward alleviating serious problems by authorizing construction of a new VA medical facility in Columbus, Ohio. Actually, it is in White Hall, Ohio, which is in my district.

The current Chalmers P. Wylie VA Outpatient Clinic in White Hall, or actually it is in Columbus; the new one will be in White Hall, has a high-quality professional medical staff, but the facility is woefully inadequate for the needs of the area's veterans. Originally, this clinic was to handle 135,000 annual visits; but last year, it saw more than 192,000, fully 42 percent more than intended in the original design, and we do not own the ground, and the lease is up in 10 years.

Over the years, far too many veterans have had to travel up to 3 hours to receive treatment at larger VA medical centers in either Cleveland, Cincinnati, or elsewhere because of the limited medical services offered by the current clinic. The cost to transfer these veterans has reached several million dollars per year.

This bill includes the authority to build a new 260,000 square foot facility on the Defense Supply Center on the White Hall, Ohio, campus, which will house a wide variety of new and expanded services that are not currently offered at the Chalmers P. Wylie facility.

In conclusion, Mr. Speaker, it is vitally important that we move forward with this legislation and subsequently on the new facility in White Hall. I am grateful to the members of the Committee on Veterans' Affairs and this subcommittee, once again, for their expeditious movement of this bill. I urge everyone to support this bill.

Ms. BERKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ORTIZ).

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

Mr. ORTIZ. Mr. Speaker, let me begin by thanking members of the Committee on Veterans' Affairs, the subcommittee, the ranking member and the chairman, and especially the gentleman from New Jersey (Mr. SMITH), and the ranking member, the gentleman from Illinois (Mr. EVANS), and my colleague, the gentleman from Texas (Mr. RODRIGUEZ). I also want to thank my good friend, the gentleman from Ohio (Mr. HOBSON), who has been a champion for our veterans and their interests, both in Ohio and south Texas and the rest of the Nation.

Finding a way to get inpatient health care services for our veterans in south Texas has been a long journey, and it is a labor of love for all involved. We first began this journey 21 years ago.

We know the debt we owe our veterans today. The soldiers we send forth in today's war on terrorism are tomorrow's veterans. As liberty must be defended, the population of veterans in the United States and south Texas will continue to grow.

I have worked with the Department of Veterans Affairs for a long time to bring improved services to the long-ignored population of veterans living in the tip of Texas. The VA has responded with their approach through the CARES program. It is long overdue for the VA to look seriously at the long-term needs and service delivery for the population they serve. Can my colleagues imagine, those who served the military from the Second World War, the Korean War, and the Vietnam War, they have to travel all the way to San Antonio, a journey of about anywhere from 2½ to 7 hours. Some of them are bedridden. There is no ambulance service. We are working on that. But thanks to the support that the VA has given me and the other Members who have needs in their districts, we really thank them for all the help that they have given us.

There are presently no inpatient services in this market, other than a limited contract in the Lower Rio Grande Valley, and limited access to specialty care patients. Patients must now travel a long, long journey. Opportunities exist to reduce this gap by working with DOD in Corpus Christi, as well as the University of Texas Regional Health Care Academic Center in Harlingen. Two submarkets were identified: Coastal Bend, Corpus Christi and surrounding area, and Rio Grande Valley, including Brownsville, Harlingen and surrounding areas, because transportation between these areas is difficult, involving secondary roads which take considerable travel time. It was an area that we had no interstate highways, no freeways until the last 10, 12 years. So to travel to get to the facility was long and hard.

So I want to thank again the subcommittee and the full committee for addressing this need and for working with us. Again, I thank my good friend, the gentleman from Ohio (Mr. HOBSON), so much for the help he gave me on this bill.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Colorado (Mr. HEFLEY), who is the author of H.R. 116, which is included as section 4 of this bill, which authorizes a $300 million Fitzsimons Hospital System, along

with the gentleman from Colorado (Mr. BEAUPREZ), who is the chief cosponsor.

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

Mr. HEFLEY. Mr. Speaker, I appreciate the gentleman yielding me this time.

I rise today in complete support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act, which is a 2-year authorization bill that will authorize the Secretary of Veterans Affairs to carry out major medical facility construction projects to improve, renovate, replace, and update our established patient care facilities within the Department of Veterans Affairs.

Certainly it is not before it is needed. If my colleagues have visited many of these facilities, as our chairman has, they would know how badly this updating and renovation is needed. I want to thank the chairman particularly. No one could have been more gracious and helpful than he has been to me in my particular part of this bill, and I appreciate that so much. The gentleman is so dedicated to better health care for veterans. The gentleman is the expert in the House of Representatives, and I look to him for guidance on these subjects. He has been just great with this. As a matter of fact, I appreciate the gentleman's whole committee, both Democrats and Republicans. They are trying to get a job done for the veterans, and they are doing an excellent job of it.

Again, I appreciate the gentleman from Colorado (Mr. BEAUPREZ), who is on the committee and is one of my dear friends and colleagues from the State of Colorado and who has been absolutely dedicated to this project as well.

As the gentleman indicated, in addition to authorizing $168 million for fiscal year 2004 and $600 million for fiscal year 2005 for construction of undesignated major projects, H.R. 1720 also authorizes the Secretary of Veterans Affairs to carry out a major medical facility project at the former Fitzsimons Army Medical Center site in Aurora, Colorado. H.R. 1720 would authorize this project to be carried out, using a total of approximately $300 million.

The Veterans Medical Center in Denver and the University of Colorado hospitals have been in a partnership, a next-door partnership since the Second World War. They have shared expensive and specialized medical equipment and facilities, such as surgical suites and imaging equipment and expensive specialty diagnostics and medical treatments; but due to the lack of space and the landlockness of the hospitals there, when the University of Colorado needed to modernize and build on a new site, they went out to the Fitzsimons Army Medical Center and began building in 1995.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Colorado (Mr. HEFLEY), who is the author of H.R. 116, which is included as section 4 of this bill, which authorizes a $300 million Fitzsimons Hospital System, along with the gentleman from Colorado (Mr. BEAUPREZ), who is the chief cosponsor.

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

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And the university's move will create a state-of-the-art medical campus which, in turn, will develop many of the very best services of in the United States. The Anschutz Cancer Pavilion, which is already open, is among the best institutions in the Nation for all types of cancer treatment and research.

The University of Colorado Health Science Center is well known throughout the country for its organ transplant programs, for instance. Unfortunately, the University's move created an 8-mile separation between the University of Colorado and the old veterans hospital that had been so close before.

This 8-mile separation creates a very real and significant barrier to quality care for veterans who have been working in cooperation all these years, the two hospitals.

A study commissioned by the Veterans Integrated Service Network indicated that high demand for medical services by veterans at the Denver Veterans Medical Center will continue unabated for at least the next 20 years. The cost of maintaining the current Denver Veterans Medical Center, to satisfy minimal accreditation levels until 2020, has been estimated to be $233 million, and estimates to rebuild the facility in 2020 are $377 million in today's dollars.

So if we put this $233 million into it, at the end of this period, this 20-year period, we still have an old facility, and we have put almost as much into it as it would take to build a new facility.

Planning studies have shown that a move of the Denver Veterans Medical Center to the Fitzsimons campus is the most cost-effective of the reasonably accepted alternatives.

The Denver Veterans Medical Center relocation to the Fitzsimons campus will solve aging facilities issues, cap new facilities cost, enhance quality of medical care, increase flexibility and reduce operational costs. Veterans who have highly specialized medical needs must have easy access to the best diagnostic and treatment programs that America provides.

In a medical school environment, doctors tend to be better informed of the latest treatment procedures and protocols. They are closer to the cutting edge of modern medicine. Quality of medical care for veterans is enhanced in a medical school teaching hospital. University physicians and special residency programs provide a significant amount of care in the Denver veterans medical center. To date, some 90 percent of the physicians that work at the VA Medical Center also work at the University of Colorado Health Science Center. And most VA doctors have faculty appointments in the medical school.

Colocating the University of Colorado hospital in the Denver Veterans Medical Center will allow university doctors to continue their close relationship in treating veterans.

Mr. Speaker, let me just summarize real quickly. This is an opportunity that you do not get very often, to have a medical campus which is, in essence, right in the middle of a metropolitan area like Denver, Colorado. If it was not for the closing of Fitzsimons Hospital, which we all hated at the time, this would never have come about. But right here, in the middle of this metropolitan area, you will have the one of the finest, state-of-the-art, cutting edge health medical facilities in the whole United States. It is going to mean cutting edge, quality care for veterans. The gentleman from New Jersey (Mr. SMITH) can take a lot of credit when this comes about.

The new VA Medical Center at Fitzsimons site will be veteran-friendly and will provide a practicable alternative to the Denver Veterans Medical Center remaining at its current, outdated facility.

The new Veterans Medical Center at Fitzsimons will be a free-standing ambulatory and impatient care federal tower building for veterans, clearly identified as the Veterans Administration Medical Center.

New veterans research facilities will be constructed and there will be a new veterans long-term care unit located next to the new 180-bed State veterans nursing home currently being constructed at the site.

Given the rising demand for veterans health care, and the significant challenges of an aging and increasingly less-efficient Denver Veterans Medical Center facility, my interest and my efforts are aimed at continuing the collaboration between the Denver Veterans Medical Center, University of Colorado Health Sciences Center and University of Colorado Hospital.

I believe that the opportunity to co-locate the Denver Veterans Medical Center with the University of Colorado Health Sciences Center and the University of Colorado Hospital at the Fitzsimons campus will meet the demand for veteran care in this area through 2020 and beyond; provide significant savings in both capital and operational costs for the Department of Veterans Affairs and the taxpayer; continue to meet the Denver Veterans Medical Center commitment to education and research; and potentially create a national model for the future of veterans' care dealing with both a new concept for facilities and collaboration with long-established partners. More importantly, this move will retain veteran ''identity'' while also providing optimum patient care.

To date, over 45 local, state and national Veterans' Service Organizations and the American Federation of Government Employees, Local 2241, have expressed their support for this proposal.

I believe that co-locating the Denver Vetrans' Medical Cebter with the University of Colorado Hospital will achieve the goals of providing the up-most modern, comprehensive

and cost-efficient medical care that we as a nation owe our veterans.

Congress has a duty to provide the best medical care it can to our nation's veterans and we must always strive for the very best health care services it can by utilizing the most cost-effective measures available.

The fact is, aging facilities, lack of funds, and the growing demands on the veterans health system are proving to be daunting obstacles in meeting Congress' responsibilities to our nation's veterans.

However, the possibility for the Denver Veterans Medical Center to move to Fitzsimons and co-locate with University of Colorado Health Sciences Center and University of Colorado Hospital is a unique opportunity to provide solid and constructive solutions to these challenges.

Mr. SMITH of New Jersey. Mr. Speaker, I want to thank the gentleman from Colorado (Mr. HEFLEY) again, Mr. Speaker, for the outstanding work that he has done. He has been indefatigable in promoting this project along with the gentleman from Colorado (Mr. BEAUPREZ). And we are very, very grateful on the committee to have that kind of advocacy coming our way on behalf of the veterans.

Mr. Speaker, I would inquire as to our remaining time and ask if the gentlewoman from Nevada (Ms. BERKLEY) might yield some of her time. We have an additional speaker, the gentleman from Colorado (Mr. BEAUPREZ).

The SPEAKER pro tempore (Mr. TERRY). The gentleman from New Jersey (Mr. SMITH) has 30 seconds. The gentlewoman (Ms. BERKLEY) from Nevada has 5 minutes.

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

Mr. Speaker, I would be delighted to yield to the gentleman the balance of our time so that all of his members can speak on behalf of this legislation. If I could take 30 seconds to sum up.

Mr. Speaker, the gentleman from California (Mr. FILNER) in his remarks referred to me as the not-so-gentlelady from Nevada. I take great pride in that characterization. I do not think any of us should be gentle when it comes to issues that affect the health care of our veterans.

We owe these veterans, men and women, a tremendous debt of gratitude. We are going to have far more veterans once our war against terrorism is over. I applaud my colleagues on both sides of the aisle for being steadfast on this piece of legislation. We should not rest. And none of us should be able to go back to our districts and look our veterans in the face if we do not deliver for them now.

Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentlewoman from Nevada (Ms. BERKLEY) for her gracious yielding.

Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. BEAUPREZ). He has been a very strong supporter of this legislation in general, but particularly for Fitzsimons.

Mr. BEAUPREZ. Mr. Speaker, I also am proud to speak today in strong support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. Many facilities in the VA health care system are run-down, decrepit buildings that are not conducive to providing quality health care to our veterans.

The Denver Veterans Medical Center in Colorado was constructed approximately 50 years ago to provide fairly low-volume inpatient care to our veteran population. In Colorado today, as my distinguished colleague, the gentleman from Colorado (Mr. HEFLEY) just outlined, we have an opportunity to provide health care in a much more efficient manner.

The Denver Veterans Medical Center is in decaying state. It is faced with two main alternatives with regard to this facility. The first alternative is to invest in renovation of this facility and make it capable of handling the medical needs of our current veteran population and the changing needs of that population over the next 20 or so years. After such a renovation, not only would the VA still be left with a 50-year-old building, but as the gentleman from Colorado (Mr. HEFLEY) pointed out, it would also be an orphaned medical center.

The second alternative is to relocate the building to the new Fitzsimons campus. Such a relocation would allow for a modern facility to deliver modern health care on a state-of-the-art medical campus, one that we think will be a standard for the whole Nation.

The VA would be able to take advantage of the University of Colorado partnership which will provide numerous operational efficiencies, as well as access to an extensive staff of doctors, technicians, and specialists.

This legislation would also authorize this critical relocation. The cost to restore the Denver facility far outweighs the cost of constructing a new hospital. It is estimated that the savings in operational efficiencies at Fitzsimons itself will pay for construction of the new hospital. Regardless of where our veterans happen to live, they deserve the best care possible.

Mr. Speaker, I want to compliment the gentleman from New Jersey (Mr. SMITH), the gentleman from Connecticut (Mr. SIMMONS), the gentleman from Colorado (Mr. HEFLEY), my colleague, for bringing this important legislation to the floor.

Again, Mr. Speaker, we believe that the Fitzsimons Veterans Hospital will become a standard for delivering better health care to our veterans for years and years to come.

Mr. Speaker, I am proud to speak today in support of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. During my time serving on the Veterans Affairs Committee I have learned first hand the difficulties and challenges the VA faces in order to provide healthcare to our nations veterans. It is my belief H.R. 1720 is one of many steps we in Congress can take to address the challenges of the VA by authorizing major medical construction for certain VA facilities.

Many facilities in the VA healthcare system are run-down, decrepit buildings that are not conducive to providing quality healthcare to our veterans. It is inconceivable to think the VA system should be expected to handle an increased amount of patients without the proper medical facilities in which to do so. We must remember that before we place increased demands on the VA we must provide the system with the tools to succeed in their mission of quality, timely healthcare.

As military operations continue to be carried out by the United States overseas, we will be creating a new generation of veterans in need of medical services from the VA. As medical costs continue to rise in the United States, many people, unable to afford private medical care will enroll for medical care with the VA. Also, as described by Deputy Secretary Leo Mackay, ''the VA's record of achievement in medical care has been so dramatic that we are now confronted with unprecedented demand for our services.'' The population dynamics that have been taking place in terms of VA enrollment are staggering. We have record levels of enrollment for VA Health Care today. In many parts of the country, those numbers will be leveling off, and slowly decreasing in the years to come. In my home state of Colorado, the enrollment numbers will only continue to rise.

The history of the VA is a unique one, especially when it comes to the medical care of our Nation's veterans. The Denver Veterans Medical Center in Colorado was constructed primarily to provide low-volume inpatient care to our veteran population. Over time, the VA has worked to adapt this center to the ways of modern medicine, and to provide primarily high-volume outpatient care to our veterans. Unfortunately, the costs associated with the necessary renovations are extremely high, and this building is finding little potential for further renovation to address current medical needs with modern medical equipment.

The issues faced by this center are not unique, and are exactly the types of issues that prompted the CARES process to be initiated. In 1999, the General Accounting Office reported that the ''VA could enhance veterans' health care benefits if it reduced the level of resources spent on underused or inefficient buildings, and used these resources instead. To provide health care more efficiently.'' In Colorado today, we have just such an opportunity to provide health care in a much more efficient manner.

Since the construction of this medical center fifty years ago, the VA has established a partnership with the University of Colorado-Health Science Center to enhance the quality of care provided here. I am told that approximately 90 percent of the doctors providing care here are University doctors. Most research initiatives carried out in this hospital are carried out with the help of University researchers. Cutting edge medical procedures are carried out at this hospital through collaboration between the VA, and the University of Colorado. After the University's decision to relocate to Fitzsimons was made a few years ago, the 50-year partnership between CU and the VA has begun to erode. The VA is losing access to the fine medical staff from CU that they have relied upon for such a long time.

The University saw the potential to create numerous operational efficiencies in their

move to Fitzsimons, and they acted on it. Today, the VA has the potential to benefit from many of these same efficiencies by moving to Fitzsimons, and create other ones through an extended collaboration with the University and the Department of Defense. Congress, through H.R. 1720, should authorize the VA to act on this opportunity in much the same way the University did. This House has already begun the process of action by approving four million dollars in the DoD appropriation, and an additional nine million dollars in the VA/HUD appropriation this year.

The Denver Veterans Medical Center is faced with two main alternatives with regard to their facility. The first alternative is to invest in the renovation of this facility to make it capable of handling the medical needs of our current veteran population, and the changing needs of that population over the next 20 years. After such a renovation, not only would the VA still be left with a 50-year old building, but it would also be an orphaned medical center. The second alternative is to relocate to the new Fitzsimons campus. Such relocation would allow for a modern facility to deliver modern health care in a preferred location. The VA would once again be able to take advantage of the University partnership, which will provide numerous operational efficiencies as well as access to an extensive staff of doctors, technicians, and specialists.

It is my belief that the savings in operational efficiencies of Fitzsimons in itself will pay for the construction of the new hospital. Of greater importance, the quality of care that could be provided to our veterans will be much higher at Fitzsimons.

Construction of a new hospital at Fitzsimons also allows for the ability to build a much needed Spinal Cord Injury center. Such a center is highly desired not only by the veterans in our district, but it would also be well suited for ideal research opportunities with the university. Currently, the closest Spinal Cord Injury center to our region is a great distance away in Albuquerque, New Mexico.

One final reason construction of a new VA hospital at Fitzsimons is a better option, lies in the hospital's potential for cutting-edge enhancements in veteran health care through collaborative research with the university.

As you know, the Department of Defense has recently expressed an interest in joining in the collaborative arrangement already espoused by the University and the VA. The benefits of this arrangement for our active duty and their families currently stationed at Buckley Air Force Base would be profound. Aside from having access to a full spectrum of medical services not available on base, these soldiers and their family will not have to worry about the potential loss in medical care caused by deployments of those who serve in the medical corps. The benefits to the base doctors will also increase significantly, allowing them to experience medical situations not typically found in a military community, while also having quick access to some of the greatest medical resources, references, and research in the country.

Regardless of where our veterans happen to live, they deserve the best care possible. As the House votes on this measure today, I ask that we all keep in mind the long-term planning mission of the VA: ''to improve access to, and the quality and cost effectiveness of, veterans health care.'' This message cannot be forgotten when addressing the needs of our veterans living in rural and outlying network areas.

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

Mr. Speaker, I thank the gentleman from Colorado (Mr. BEAUPREZ), a good friend, for his statement and for his fine work.

Mr. Speaker, I remind my colleagues we are at a crossroads. We have not done our due diligence in ensuring that sufficient funds were available to renovate, to update, to modernize our aging infrastructure of VA health care and other facilities within the VA, that is to say, those dealing with research and development.

There was a consultants' report as far as back as June of 1998 that suggested we spend 2 to 4 percent on plant replacement value to upkeep these vital facilities. We have not done that. We need to now do some hurry-up-and-catch-up baseball here. This legislation is certainly a step in the right direction. I hope it has the full support of our colleagues.

Mr. TIBERI. Mr. Speaker, I rise today to express my support for H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act. I am pleased that the House of Representatives acted today to approve this important bill.

H.R. 1720 includes language originally included in legislation introduced by my colleague, Congressman DAVID HOBSON, that authorizes the construction of an expanded VA medical facility on the campus of the Defense Supply Center in Columbus, OH.

I have been deeply and personally committed to improving health care for veterans for nearly 20 years, going back to my days as a congressional staffer handling veteran's casework. I know first hand the difficulties our veterans have had receiving the level of care they earned through their service to our country.

Columbus is the 15th largest city in America. Central Ohio, a metropolitan area of 1.2 million people, has over 135,000 veterans who reside here. Yet we have never had a VA hospital, and our clinic has always been too small to provide the services needed for our veterans. As one of the fastest growing areas in the country, we continue to see the number of veterans in central Ohio increase each year.

On the day it opened in 1995, our existing clinic was already too small to meet all the health care needs of our veterans. It was designed to handle 135,000 annual visits. Last year there were 192,000 visits, and this year the clinic is handling 823 visits per day, which will total approximately 205,000 visits in 2003. Furthermore, the current veterans population projection data does not account for veterans of Operation Enduring Freedom, Noble Eagle or Iraqi Freedom. In Ohio alone we have mobilized over 6,000 National Guard and Reserve Forces who are now eligible for health care, as well as the hundreds of thousands of Active Duty soldiers of those operations who will be returning home in the near future. These new veterans will dramatically swell the rolls at our local facilities.

While our local VA officials do the best they can with the resources they have been given, the existing facility is simply too small to meet our current needs, much less the growing needs of the future.

A continued piecemeal approach to veterans' needs both wastes taxpayer dollars, and provides substandard care to the central Ohio men and women who have given so much to our country. The VA spends nearly $3 million a year shipping our veterans around the State, admitting emergency cases to a local hospital, and paying for outpatient specialty care because they lack adequate facilities. Additionally, the current facility is leased, and the lease will expire in just over 10 years. I believe it is not a good use of taxpayer money to invest dollars in a facility the VA will not control over the long term.

I want to tell you about a veteran I know who lives in Pataskala, OH. Mr. Stanley Folk is 78 years old, and is a 60 percent service connected World War II veteran who is forced to travel to the Cincinnati VA hospital twice a month. He gets up at 4:30 a.m. to catch a shuttle down to Cincinnati to get the treatment he needs. He is forced to stay there all day until the shuttle returns him to Columbus. He does not get home until well after 7 p.m. The strain of this trip makes him so tired and ill that he is in bed for several days after to recover. This would be a hardship on anyone, but is doubly so for the elderly and disabled. It is unconscionable that veterans must go through this to get the care they deserve. The sad part is Mr. Folk is not alone. I could go on and on with stories of veterans who have faced similar hardship.

Furthermore, there are many veterans who will not seek emergency care at night and on weekends, because the VAOPC is closed, and they are afraid to go to private hospitals with no prior guarantee the VA will pay the private hospital expense. These veterans have no health insurance and they are afraid they will be stuck with a large bill they cannot pay, so they delay treatment at risk to their health.

I believe the facts clearly show that these facilities and services are desperately needed to meet the health care needs of veterans in central Ohio. I would like to thank Chairman SMITH and Ranking Member EVANS, as well as Subcommittee Chairman SIMMONS and Ranking Member RODRIGUEZ for their hard work on this legislation. My colleagues in the central Ohio delegation, Congressman DAVID HOBSON and Congresswoman DEBORAH PRYCE, as well as Ohio Senators MIKE DEWINE and GEORGE VOINOVICH, also deserve a great deal of credit for their hard work on this issue and steadfast support for the interests of central Ohio's veterans.

Mr. BROWN of South Carolina. Mr. Speaker, Chairman SIMMONS has done a fine job of explaining the bill under consideration. I would like to thank him, Full Committee Chairman SMITH, and my colleagues on the Veterans Affairs Committee for their excellent bipartisan work on this legislation.

We all understand the significant needs of our VA medical facilities across this great Nation. Many Members of this Congress have a VA building in their district that is old and in need of renovation, maintenance, and repair. The practice of medicine requires constant modernization of equipment and facilities, and we need to do our best to ensure that our veterans continue to receive the quality of care that they deserve. Although there are never enough resources for our veterans and their medical centers, this bill will authorize much needed help for those areas most in need.

In addition to the projects authorized in this bill, I think we can all agree that more needs to be done to encourage VA to coordinate with the Defense Department, the academic community, and maybe even the private sector

when medical facilities are constructed or renovated. During the consideration of this bill in full committee, I offered an amendment that was adopted without objection. It would require the Secretary of Veterans Affairs to conduct a study to examine the feasibility of coordination by the Department of Veterans Affairs with the Department of Defense's Naval Hospital Charleston and the pending construction of a new university medical center at the Medical University of South Carolina in Charleston, SC.

Our VA Hospital, located in downtown Charleston, was built in 1966. It was a good facility for its time, and the staff there does a great job, but it definitely needs a major facelift. The building is located right next to the Medical University of South Carolina (MUSC), a modern and growing facility that is in the process of a large expansion project. MUSC and the VA work well together in many areas, especially in providing outstanding patient care.

On the old Naval Base, which was closed as a result of the last BRAC, the Naval Hospital Charleston remains a few miles away. The Navy has considerably downsized this facility, which mainly serves military retirees now. It is my understanding that the building may shut down in the future and move to a new, consolidated clinic location at the Naval Weapons Station Charleston. The proposed site would be a single 156,000-square-foot facility valued at greater than $30 million, but there are no plans that I am aware of to coordinate with the VA. It is clear that there is a tremendous opportunity for the VA, DOD and MUSC to work together for the good of our veterans and American taxpayers. I am certain that there are other similar examples throughout the United States.

I feel very strongly that this is the right thing to do for our active military personnel, retirees, and veterans. Earlier this year, we held a hearing on the Presidential Task Force Report, which focused heavily on VA–DOD resource sharing efforts. Both Undersecretaries McKay and Chu acknowledged that more could be done in this area, and Charleston was cited as one of many examples. The VA cannot afford to always go it alone in the future when planning and constructing new medical facilities.

For the sake of our veterans and the men and women who serve them in VA medical facilities, I urge my colleagues to support this bill.

Mr. KIRK. Mr. Speaker, I rise in strong support of the Veterans Health Care Facilities Capital Improvement Act of 2003. Every American knows that the face of health care has changed dramatically over the past decades. This is no less true for military and veterans' health care. This legislation is vital because it will improve, renovate, and update patient care facilities at Department of Veterans Affairs medical centers. More important, this legislation demonstrates the continued support of Congress for our nation's veterans by providing the best health service facilities possible.

My district is home to the North Chicago VA Medical Center. On June 19, 2001, the VA released its Capital Asset Realignment for Enhanced Services (CARES) study. The CARES study developed four options to improve veterans' heath care in the Chicago area, each of which recommended the preservation of services offered at North Chicago. The CARES study also recommended increasing the level the cooperation between North Chicago VA and the Navy's Great Lakes Naval Hospital.

H.R. 1720 will assist the VA in cases where the department enters into resource sharing agreements with the DoD. H.R. 1720 is critical to this mission because the legislation includes a modest adjustment of the definition of what constitutes a ''major'' construction project. This legislation will raise the threshold for ''major'' construction projects to $6 million, and thus allow cooperative sharing agreements between the VA and DoD continue moving forward with minor projects without being subjected to burdensome bureaucratic time tables. Avoiding delays and moving forward with capital improvements to VA health care facilities will save valuable resources and time, which will continue the quality of services offered our Nation's active and veteran population.

In the case of the North Chicago VA Medical Center and Great Lakes Naval Hospital, integration of the two medical facilities is practical and urgent. These facilities both sit underutilized and less than a mile away from each other. Combining these two facilities, state of the art, Federal health care center will maximize the use of tax dollars, enhance the training opportunities for young naval medical corps personnel, and, most important, bring the health care we promised our service men and veteran population into the 21st century. Changing the definition of ''major'' construction may allow the VA to move forward with plans to redesign and construct operating rooms and the emergency room at North Chicago.

I would like to thank the chief sponsor of this bill Representative ROB SIMMONS, and Chairman CHRIS SMITH of the VA Committee for their work and dedication to America's veterans.

Mr. Speaker, H.R. 1720 will allow the VA to continue moving forward by providing our Nation's veterans, and in some cases our active duty personnel, with new improved health care facilities. I urge my colleagues to support this legislation.

Mrs. SUSAN DAVIS of California. Mr. Speaker, I rise today in strong support of H.R. 1720, legislation to provide funding for a project crucial to the veterans' community in the San Diego region.

The Veterans' Affairs Medical Center in La Jolla, California serves one of the largest veterans communities in the nation. Nearly 240,000 retired military personnel in the San Diego area receive treatment from at the La Jolla hospital and nearby VA medical facilities.

I can't stress enough how important it is to ensure these facilities can provide veterans with the treatment they need even at times of disaster.

Just this week, the dedicated medical staff at area VA medical facilities worked hard to care for our veterans—despite the poor air quality and other dangers caused by the horrible wildfires burning in Southern California. It is crucial that they have the resources to continue their important work during such difficult times.

H.R. 1720 will help the VA prepare in case another type of disaster strikes. This legislation provides 50 million dollars to make necessary seismic corrections to the La Jolla VA medical center.

Mr. Speaker, this project will help ensure that both our veterans and the medical staff will be safe if a large earthquake strikes. And it will ensure that the hospital can continue treating our veterans in the aftermath.

I encourage my colleagues to join me in supporting this legislation on behalf of our veterans' community and dedicated VA medical personnel in San Diego.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of our time.

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. 1720, as amended.

The question was taken.

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

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1720, as amended.

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

There was no objection.

CONFERENCE REPORT ON H.R. 2115, VISION 100–CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. MICA submitted the following conference report and statement on the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–334)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2115), to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Vision 100—Century of Aviation Reauthorization Act''.

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

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to title 49, United States Code.
Sec. 3. Applicability.
Sec. 4. Findings.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding of FAA Programs

Sec. 101. Airport planning and development and noise compatibility planning and programs.
Sec. 102. Air navigation facilities and equipment.
Sec. 103. Federal Aviation Administration operations.
Sec. 104. Funding for aviation programs.
Sec. 105. Agreements for operation of airport facilities.
Sec. 106. Insurance.

Subtitle B—Passenger Facility Fees

Sec. 121. Low-emission airport vehicles and ground support equipment.
Sec. 122. Use of fees to pay debt service.
Sec. 123. Streamlining of the passenger facility fee program.
Sec. 124. Financial management of passenger facility fees.

Subtitle C—AIP Modifications

Sec. 141. Airfield pavement.
Sec. 142. Replacement of baggage conveyor systems.
Sec. 143. Authority to use certain funds for airport security programs and activities.
Sec. 144. Grant assurances.
Sec. 145. Clarification of allowable project costs.
Sec. 146. Apportionments to primary airports.
Sec. 147. Cargo airports.
Sec. 148. Considerations in making discretionary grants.
Sec. 149. Flexible funding for nonprimary airport apportionments.
Sec. 150. Use of apportioned amounts.
Sec. 151. Increase in apportionment for, and flexibility of, noise compatibility planning programs.
Sec. 152. Pilot program for purchase of airport development rights.
Sec. 153. Military airport program.
Sec. 154. Airport safety data collection.
Sec. 155. Airport privatization pilot program.
Sec. 156. Innovative financing techniques.
Sec. 157. Airport security program.
Sec. 158. Emission credits for air quality projects.
Sec. 159. Low-emission airport vehicles and infrastructure.
Sec. 160. Compatible land use planning and projects by State and local governments.
Sec. 161. Temporary increase in Government share of certain AIP project costs.
Sec. 162. Share of airport project costs.
Sec. 163. Federal share for private ownership of airports.
Sec. 164. Disposition of land acquired for noise compatibility purposes.
Sec. 165. Hangar construction grant assurance.
Sec. 166. Terminal development costs.

Subtitle D—Miscellaneous

Sec. 181. Design-build contracting.
Sec. 182. Pilot program for innovative financing of air traffic control equipment.
Sec. 183. Cost sharing of air traffic modernization projects.
Sec. 184. Facilities and equipment reports.
Sec. 185. Civil penalty for permanent closure of an airport without providing sufficient notice.
Sec. 186. Midway Island Airport.
Sec. 187. Intermodal planning.
Sec. 188. Marshall Islands, Micronesia, and Palau.
Sec. 189. Limitation on approval of certain programs.
Sec. 190. Conveyance of airport.

TITLE II—FAA ORGANIZATION

Subtitle A—FAA Reform

Sec. 201. Management advisory committee members.
Sec. 202. Reorganization of the air traffic services subcommittee.
Sec. 203. Clarification of the responsibilities of the Chief Operating Officer.
Sec. 204. Deputy Administrator.

Subtitle B—Miscellaneous

Sec. 221. Controller staffing.
Sec. 222. Whistleblower protection under acquisition management system.
Sec. 223. FAA purchase cards.
Sec. 224. Procurement.
Sec. 225. Definitions.
Sec. 226. Air traffic controller retirement.
Sec. 227. Design organization certificates.
Sec. 228. Judicial review.
Sec. 229. Overflight fees.

TITLE III—ENVIRONMENTAL PROCESS

Subtitle A—Aviation Development Streamlining

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Airport capacity enhancement.
Sec. 304. Aviation project streamlining.
Sec. 305. Elimination of duplicative requirements.
Sec. 306. Construction of certain airport capacity projects.
Sec. 307. Issuance of orders.
Sec. 308. Limitations.
Sec. 309. Relationship to other requirements.

Subtitle B—Miscellaneous

Sec. 321. Report on long-term environmental improvements.
Sec. 322. Noise disclosure.
Sec. 323. Overflights of national parks.
Sec. 324. Noise exposure maps.
Sec. 325. Implementation of Chapter 4 noise standards.
Sec. 326. Reduction of noise and emissions from civilian aircraft.
Sec. 327. Special rule for airport in Illinois.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

Subtitle A—Small Community Air Service

Sec. 401. Exemption from hold-in requirements.
Sec. 402. Adjustments to account for significantly increased costs.
Sec. 403. Joint proposals.
Sec. 404. Essential air service authorization.
Sec. 405. Community and regional choice programs.
Sec. 406. Code-sharing pilot program.
Sec. 407. Tracking service.
Sec. 408. EAS local participation program.
Sec. 409. Measurement of highway miles for purposes of determining eligibility of essential air service subsidies.
Sec. 410. Incentive program.
Sec. 411. National Commission on Small Community Air Service.
Sec. 412. Small community air service.

Subtitle B—Miscellaneous

Sec. 421. Data on incidents and complaints involving passenger and baggage security screening.
Sec. 422. Delay reduction actions.
Sec. 423. Collaborative decisionmaking pilot program.
Sec. 424. Competition disclosure requirement for large and medium hub airports.
Sec. 425. Slot exemptions at Ronald Reagan Washington National Airport.
Sec. 426. Definition of commuter aircraft.
Sec. 427. Airfares for members of the Armed Forces.
Sec. 428. Air carriers required to honor tickets for suspended service.

TITLE V—AVIATION SAFETY

Sec. 501. Counterfeit or fraudulently represented parts violations.
Sec. 502. Runway safety standards.
Sec. 503. Civil penalties.
Sec. 504. Improvement of curriculum standards for aviation maintenance technicians.
Sec. 505. Assessment of wake turbulence research and development program.
Sec. 506. FAA inspector training.
Sec. 507. Air transportation oversight system plan.

TITLE VI—AVIATION SECURITY

Sec. 601. Certificate actions in response to a security threat.
Sec. 602. Justification for air defense identification zone.
Sec. 603. Crew training.
Sec. 604. Study of effectiveness of transportation security system.
Sec. 605. Airport security improvement projects.
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Sec. 825. Noise control plan for certain airports.
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Sec. 828. Report on waivers of preference for buying goods produced in the United States.
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Sec. 901. Extension of expenditure authority.
Sec. 902. Technical correction to flight segment.

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. APPLICABILITY.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall apply only to fiscal years beginning after September 30, 2003.

SEC. 4. FINDINGS.

Congress finds the following:

(1) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

(2) Past Federal investment in aeronautics research and development has benefited the economy and national security of the United States and the quality of life of its citizens.

(3) The total impact of civil aviation on the United States economy exceeds $900,000,000,000 annually and accounts for 9 percent of the gross national product and 11,000,000 jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of the Nation's highly skilled, technologically qualified work force.

(4) Aerospace technologies, products, and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

(5) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

(6) Revitalization and coordination of the United States efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

(7) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

(A) aerospace will be at the core of the Nation's leadership and strength throughout the 21st century;

(B) aerospace will play an integral role in the Nation's economy, security, and mobility; and

(C) global leadership in aerospace is a national imperative.

(8) Despite the downturn in the global economy, projections of the Federal Aviation Administration indicate that upwards of 1,000,000,000 people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

(9) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding of FAA Programs

SEC. 101. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

(a) AUTHORIZATION.—Section 48103 is amended—

(1) by striking ''September 30, 1998'' and inserting ''September 30, 2003''; and

(2) by striking paragraphs (1) through (5) and inserting the following:

''(1) $3,400,000,000 for fiscal year 2004;
''(2) $3,500,000,000 for fiscal year 2005;
''(3) $3,600,000,000 for fiscal year 2006; and
''(4) $3,700,000,000 for fiscal year 2007.''.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2007''.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101 is amended—

(1) in subsection (a) by striking paragraphs (1) through (5) and inserting the following:

''(1) $3,138,000,000 for fiscal year 2004;
''(2) $2,993,000,000 for fiscal year 2005;
''(3) $3,053,000,000 for fiscal year 2006; and
''(4) $3,110,000,000 for fiscal year 2007.'';

(2) by striking subsections (b), (d), and (e) and redesignating subsection (c) as subsection (b);

(3) by inserting after subsection (b) (as so redesignated) the following:

''(c) ENHANCED SAFETY AND SECURITY FOR AIRCRAFT OPERATIONS IN THE GULF OF MEXICO.—Of amounts appropriated under subsection (a), such sums as may be necessary for fiscal years 2004 through 2007 may be used to expand and improve the safety, efficiency, and security of air traffic control, navigation, low altitude communications and surveillance, and weather services in the Gulf of Mexico.

''(d) OPERATIONAL BENEFITS OF WAKE VORTEX ADVISORY SYSTEM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used for the development and analysis of wake vortex advisory systems.

''(e) GROUND-BASED PRECISION NAVIGATIONAL AIDS.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 to 2007 may be used to establish a program for the installation of a precision approach aid designed to improve aircraft accessibility at mountainous airports with limited land if the approach aid is able to provide curved and segmented approach guidance for noise abatement purposes and other such approach aids and is certified or approved by the Administrator.'';

(4) in subsection (f)—

(A) by striking ''for fiscal years beginning after September 30, 2000''; and

(B) by inserting ''may be used'' after ''necessary''; and

(5) by adding at the end the following:

''(h) STANDBY POWER EFFICIENCY PROGRAM.—Of amounts appropriated under subsection (a), such sums as may be necessary for each of fiscal years 2004 through 2007 may be used by the Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, to establish a program to improve the efficiency, cost effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

''(i) PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.—Of amounts appropriated under subsection (a), $500,000 for fiscal year 2004 may be used for the conduct of a pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of takeoffs and landings.''.

SEC. 103. FEDERAL AVIATION ADMINISTRATION OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended to read as follows:

''(1) SALARIES, OPERATIONS, AND MAINTENANCE.—There is authorized to be appropriated to the Secretary of Transportation for salaries, operations, and maintenance of the Administration—

''(A) $7,591,000,000 for fiscal year 2004;
''(B) $7,732,000,000 for fiscal year 2005;
''(C) $7,889,000,000 for fiscal year 2006; and
''(D) $8,064,000,000 for fiscal year 2007.

Such sums shall remain available until expended.''.

(b) AUTHORIZED EXPENDITURES.—Section 106(k)(2) is amended—

(1) by striking subparagraphs (A) and (B) and subparagraphs (F) through (I);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively;

(3) in subparagraphs (A), (B), and (C) (as so redesignated) by striking ''fiscal years 2000 through 2003'' and inserting ''fiscal years 2004 through 2007''; and

(4) by adding after subparagraph (C) (as so redesignated) the following:

''(D) Such sums as may be necessary for fiscal years 2004 through 2007 for the Center for Management Development of the Federal Aviation Administration to operate training courses and to support associated student travel for both residential and field courses.

''(E) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out and expand the Air Traffic Control Collegiate Training Initiative.

''(F) Such sums as may be necessary for fiscal years 2004 through 2007 for the completion of the Alaska aviation safety project with respect to the 3 dimensional mapping of Alaska's main aviation corridors.

''(G) Such sums as may be necessary for fiscal years 2004 through 2007 to carry out the Aviation Safety Reporting System.''.

(c) AIRLINE DATA AND ANALYSIS.—There is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $3,971,000 for fiscal year 2004, $4,045,000 for fiscal year 2005, $4,127,000 for fiscal year 2006, and $4,219,000 for fiscal year 2007 to gather aviation data and conduct analyses of such data in the Bureau of Transportation Statistics of the Department of Transportation.

SEC. 104. FUNDING FOR AVIATION PROGRAMS.

(a) IN GENERAL.—Chapter 481 is further amended by adding at the end the following:

''§ 48114. Funding for aviation programs

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) AIRPORT AND AIRWAY TRUST FUND GUARANTEE.—

''(A) IN GENERAL.—The total budget resources made available from the Airport and Airway Trust Fund each fiscal year through fiscal year 2007 pursuant to sections 48101, 48102, 48103, and 106(k) of title 49, United States Code, shall be equal to the level of receipts plus interest credited to the Airport and Airway Trust Fund for that fiscal year. Such amounts may be used only for aviation investment programs listed in subsection (b).

''(B) GUARANTEE.—No funds may be appropriated or limited for aviation investment programs listed in subsection (b) unless the amount described in subparagraph (A) has been provided.

''(2) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FROM THE GENERAL FUND.—In any fiscal year through fiscal year 2007, if the amount described in paragraph (1) is appropriated, there is further authorized to be appropriated from the general fund of the Treasury such sums as may be necessary for the Federal Aviation Administration Operations account.

''(b) DEFINITIONS.—In this section, the following definitions apply:

''(1) TOTAL BUDGET RESOURCES.—The term 'total budget resources' means the total amount

made available from the Airport and Airway Trust Fund for the sum of obligation limitations and budget authority made available for a fiscal year for the following budget accounts that are subject to the obligation limitation on contract authority provided in this title and for which appropriations are provided pursuant to authorizations contained in this title:

''(A) 69–8106–0–7–402 (Grants in Aid for Airports).

''(B) 69–8107–0–7–402 (Facilities and Equipment).

''(C) 69–8108–0–7–402 (Research and Development).

''(D) 69–8104–0–7–402 (Trust Fund Share of Operations).

''(2) LEVEL OF RECEIPTS PLUS INTEREST.—The term 'level of receipts plus interest' means the level of excise taxes and interest credited to the Airport and Airway Trust Fund under section 9502 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) (Treasury identification code 20–8103–0–7–402) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

''(c) ENFORCEMENT OF GUARANTEES.—

''(1) TOTAL AIRPORT AND AIRWAY TRUST FUND FUNDING.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for aviation investment programs described in subsection (b) to be less than the amount required by subsection (a)(1)(A) for such fiscal year.

''(2) CAPITAL PRIORITY.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that provides an appropriation (or any amendment thereto) for any fiscal year through fiscal year 2007 for Research and Development or Operations if the sum of the obligation limitation for Grants-in-Aid for Airports and the appropriation for Facilities and Equipment for such fiscal year is below the sum of the authorized levels for Grants-in-Aid for Airports and for Facilities and Equipment for such fiscal year.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 481 is amended by adding at the end the following:

''48114. Funding for aviation programs.''.

(c) REPEAL.—Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 48101 note) and the item relating to such section in the table of contenets in section 1(b) of such Act are repealed.

SEC. 105. AGREEMENTS FOR OPERATION OF AIRPORT FACILITIES.

Section 47124 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.'';

(2) by striking subsection (b)(2) and inserting the following:

''(2) The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.'';

(3) in subsection (b)(3)—

(A) in the paragraph heading by striking ''PILOT'';

(B) by striking ''pilot'' each place it appears; and

(C) in subparagraph (E) by striking ''$6,000,000 per fiscal year'' and inserting ''$6,500,000 for fiscal 2004, $7,000,000 for fiscal year 2005, $7,500,000 for fiscal year 2006, and $8,000,000 for fiscal year 2007''; and

(4) in subsection (b)(4)(C) by striking ''$1,100,000.'' and inserting ''$1,500,000.''.

SEC. 106. INSURANCE.

(a) AIRCRAFT MANUFACTURERS.—

(1) IN GENERAL.—Section 44302 is amended by adding at the end the following:

''(g) AIRCRAFT MANUFACTURERS.—

''(1) IN GENERAL.—The Secretary may provide to an aircraft manufacturer insurance for loss or damage resulting from operation of an aircraft by an air carrier and involving war or terrorism.

''(2) AMOUNT.—Insurance provided by the Secretary under this subsection shall be for loss or damage in excess of the greater of the amount of available primary insurance or $50,000,000.

''(3) TERMS AND CONDITIONS.—Insurance provided by the Secretary under this subsection shall be subject to the terms and conditions set forth in this chapter and such other terms and conditions as the Secretary may prescribe.''.

(2) DEFINITION OF AIRCRAFT MANUFACTURER.—Section 44301 is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting before paragraph (2) (as so redesignated) the following:

''(1) 'aircraft manufacturer' means any company or other business entity, the majority ownership and control of which is by United States citizens, that manufactures aircraft or aircraft engines.''.

(3) COVERAGE.—Section 44303(a) is amended—

(A) in the subsection heading by striking ''IN GENERAL'' and inserting ''IN GENERAL''; and

(B) by adding at the end the following:

''(6) loss or damage of an aircraft manufacturer resulting from operation of an aircraft by an air carrier and involving war or terrorism.''.

(b) AIRCRAFT MANUFACTURER LIABILITY FOR THIRD-PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—Section 44303(b) is amended by adding at the end the following: ''The Secretary may extend the provisions of this subsection to an aircraft manufacturer (as defined in section 44301) of the aircraft of the air carrier involved.''.

(c) PREMIUMS AND LIMITATIONS ON COVERAGE AND CLAIMS.—Section 44306(b) is amended by striking ''air'' and inserting ''insurance''.

(d) ENDING EFFECTIVE DATE.—Section 44310 is amended by striking ''December 31, 2004'' and inserting ''March 30, 2008''.

(e) TECHNICAL CORRECTION.—Effective November 19, 2001, section 124(b) of the Aviation and Transportation Security Act (115 Stat. 631) is amended by striking ''to carry out foreign policy'' and inserting ''to carry out the foreign policy''.

Subtitle B—Passenger Facility Fees

SEC. 121. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

(a) IN GENERAL.—Section 40117(a)(3) is amended by inserting at the end the following:

''(G) A project for converting vehicles and ground support equipment used at a commercial service airport to low-emission technology (as defined in section 47102) or to use cleaner burning conventional fuels, retrofitting of any such vehicles or equipment that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, or acquiring for use at a commercial service airport vehicles and ground support equipment that include low-emission technology or use cleaner burning fuels if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.''.

(b) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—Section 40117(b) is amended by adding at the end the following:

''(5) MAXIMUM COST FOR CERTAIN LOW-EMISSION TECHNOLOGY PROJECTS.—The maximum cost that may be financed by imposition of a passenger facility fee under this section for a project described in subsection (a)(3)(G) with respect to a vehicle or ground support equipment may not exceed the incremental amount of the project cost that is greater than the cost of acquiring a vehicle or equipment that is not low-emission and would be used for the same purpose, or the cost of low-emission retrofitting, as determined by the Secretary.''.

(c) GROUND SUPPORT EQUIPMENT DEFINED.—Section 40117(a) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following:

''(4) GROUND SUPPORT EQUIPMENT.—The term 'ground support equipment' means service and maintenance equipment used at an airport to support aeronautical operations and related activities.''.

(d) GUIDANCE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance determining eligibility of projects, and how benefits to air quality must be demonstrated, under the amendments made by this section.

SEC. 122. USE OF FEES TO PAY DEBT SERVICE.

Sections 40117(b) is further amended by adding at the end the following:

''(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility fee imposed under paragraph (1) or (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport.''.

SEC. 123. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM.

(a) APPLICATION REQUIREMENTS.—Section 40117(c) is amended—

(1) by adding at the end of paragraph (2) the following:

''(E) The agency must include in its application or notice submitted under subparagraph (A) copies of all certifications of agreement or disagreement received under subparagraph (D).

''(F) For the purpose of this section, an eligible agency providing notice and an opportunity for consultation to an air carrier or foreign air carrier is deemed to have satisfied the requirements of this paragraph if the eligible agency limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest at the airport. In the subparagraph, the term 'significant business interest' means an air carrier or foreign air carrier that had no less than 1.0 percent of passenger boardings at the airport in the prior calendar year, had at least 25,000 passenger boardings at the airport in the prior calendar year, or provides scheduled service at the airport.'';

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following:

''(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least the following under this paragraph:

''(A) A requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies that may be affected. The public notice may include—

''(i) publication in local newspapers of general circulation;

''(ii) publication in other local media; and

''(iii) posting the notice on the agency's Internet website.

''(B) A requirement for submission of public comments no sooner than 30 days, and no later than 45 days, after the date of the publication of the notice.

''(C) A requirement that the agency include in its application or notice submitted under subparagraph (A) copies of all comments received under subparagraph (B).''; and

(4) in the first sentence of paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking ''shall'' and inserting ''may''.

(b) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—Section 40117 is amended by adding at the end the following:

''(l) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT NONHUB AIRPORTS.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program to test alternative procedures for authorizing eligible agencies for nonhub airports to impose passenger facility fees. An eligible agency may impose in accordance with the provisions of this subsection a passenger facility fee under this section. For purposes of the pilot program, the procedures in this subsection shall apply instead of the procedures otherwise provided in this section.

''(2) NOTICE AND OPPORTUNITY FOR CONSULTATION.—The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2) and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

''(3) NOTICE OF INTENTION.—The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee under this subsection. The notice shall include—

''(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility fee is sought;

''(B) the amount of revenue from passenger facility fees that is proposed to be collected for each project; and

''(C) the level of the passenger facility fee that is proposed.

''(4) ACKNOWLEDGEMENT OF RECEIPT AND INDICATION OF OBJECTION.—The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee under this subsection for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

''(5) AUTHORITY TO IMPOSE FEE.—Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice under this subsection.

''(6) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

''(7) SUNSET.—This subsection shall cease to be effective beginning on the date that is 3 years after the date of issuance of regulations to carry out this subsection.

''(8) ACKNOWLEDGEMENT NOT AN ORDER.—An acknowledgement issued under paragraph (4) shall not be considered an order issued by the Secretary for purposes of section 46110.''.

(c) CLARIFICATION OF APPLICABILITY OF PFC'S TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a semicolon;

(2) by striking ''and'' at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(4) by adding after subparagraph (E) the following:

''(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the Department of Defense.''.

(d) TECHNICAL AMENDMENTS.—Section 40117(a)(3)(C) is amended—

(1) by striking ''for costs'' and inserting ''A project for costs''; and

(2) by striking the semicolon and inserting a period.

(e) ELIGIBILITY OF AIRPORT GROUND ACCESS TRANSPORTATION PROJECTS.—Not later than 60 days after the enactment of this Act, the Administrator of the Federal Aviation Administration shall publish in the Federal Register the current policy of the Administration, consistent with current law, with respect to the eligibility of airport ground access transportation projects for the use of passenger facility fees under section 40117 of title 49, United States Code.

SEC. 124. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES.

Section 40117 is further amended by adding at the end the following:

''(m) FINANCIAL MANAGEMENT OF FEES.—

''(1) HANDLING OF FEES.—A covered air carrier shall segregate in a separate account passenger facility revenue equal to the average monthly liability for fees collected under this section by such carrier or any of its agents for the benefit of the eligible agencies entitled to such revenue.

''(2) TRUST FUND STATUS.—If a covered air carrier or its agent fails to segregate passenger facility revenue in violation of the subsection, the trust fund status of such revenue shall not be defeated by an inability of any party to identify and trace the precise funds in the accounts of the air carrier.

''(3) PROHIBITION.—A covered air carrier and its agents may not grant to any third party any security or other interest in passenger facility revenue.

''(4) COMPENSATION TO ELIGIBLE ENTITIES.—A covered air carrier that fails to comply with any requirement of this subsection, or otherwise unnecessarily causes an eligible entity to expend funds, through litigation or otherwise, to recover or retain payment of passenger facility revenue to which the eligible entity is otherwise entitled shall be required to compensate the eligible agency for the costs so incurred.

''(5) INTEREST ON AMOUNTS.—A covered air carrier that collects passenger facility fees is entitled to receive the interest on passenger facility fee accounts if the accounts are established and maintained in compliance with this subsection.

''(6) EXISTING REGULATIONS.—The provisions of section 158.49 of title 14, Code of Federal Regulations, that permit the commingling of passenger facility fees with other air carrier revenue shall not apply to a covered air carrier.

''(7) COVERED AIR CARRIER DEFINED.—In this section, the term 'covered air carrier' means an air carrier that files for chapter 7 or chapter 11 of title 11 bankruptcy protection, or has an involuntary chapter 7 of title 11 bankruptcy proceeding commenced against it, after the date of enactment of this subsection.''.

Subtitle C—AIP Modifications

SEC. 141. AIRFIELD PAVEMENT.

Section 47102(3)(H) is amended by inserting ''nonhub airports and'' before ''airports that are not primary airports''.

SEC. 142. REPLACEMENT OF BAGGAGE CONVEYOR SYSTEMS.

Section 47102(3)(B)(x) is amended by striking the period at the end and inserting the following: ''; except that such activities shall be eligible for funding under this subchapter only using amounts apportioned under section 47114.''.

SEC. 143. AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES.

Section 308 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note; 110 Stat. 3253), and the item relating to such section in the table of contents contained in section 1(b) of that Act, are repealed.

SEC. 144. GRANT ASSURANCES.

(a) STATUTE OF LIMITATIONS..—Section 47107(l)(5)(A) is amended by inserting ''or any other governmental entity'' after ''sponsor''.

(b) AUDIT CERTIFICATION.—Section 47107(m) is amended—

(1) in paragraph (1) by striking ''promulgate regulations that'' and inserting ''include a provision in the compliance supplement provisions to'';

(2) in paragraph (1) by striking ''and opinion of the review''; and

(3) by striking paragraph (3).

SEC. 145. CLARIFICATION OF ALLOWABLE PROJECT COSTS.

Section 47110(b)(1) is amended by inserting before the semicolon at the end ''and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type''.

SEC. 146. APPORTIONMENTS TO PRIMARY AIRPORTS.

(a) IN GENERAL.—Section 47114(c)(1) is amended by adding at the end the following:

''(F) SPECIAL RULE FOR FISCAL YEARS 2004 AND 2005.—Notwithstanding subparagraph (A) and the absence of scheduled passenger aircraft service at an airport, the Secretary may apportion in fiscal years 2004 and 2005 to the sponsor of the airport an amount equal to the amount apportioned to that sponsor in fiscal year 2002 or 2003, whichever amount is greater, if the Secretary finds that—

''(i) the passenger boardings at the airport were below 10,000 in calendar year 2002 or 2003;

''(ii) the airport had at least 10,000 passenger boardings and scheduled passenger aircraft service in either calendar year 2000 or 2001; and

''(iii) the reason that passenger boardings described in clause (i) were below 10,000 was the decrease in passengers following the terrorist attacks of September 11, 2001.''.

(b) SPECIAL RULE FOR TRANSITIONING AIRPORTS.—Section 47114(f)(3) is amended—

(1) in the paragraph heading by striking ''AIRORTS'' and inserting ''AIRPORTS''; and

(2) in subparagraph (B) by striking ''fiscal years 2000 through 2003'' and inserting ''fiscal year 2004''.

SEC. 147. CARGO AIRPORTS.

Section 47114(c)(2) is amended—

(1) in the paragraph heading by striking ''ONLY''; and

(2) in subparagraph (A) by striking ''3 percent'' and inserting ''3.5 percent''.

SEC. 148. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS.

Section 47115(d) is amended to read as follows:

''(d) CONSIDERATIONS.—

''(1) FOR CAPACITY ENHANCEMENT PROJECTS.—In selecting a project for a grant to preserve and improve capacity funded in whole or in part from the fund, the Secretary shall consider—

''(A) the effect that the project will have on overall national transportation system capacity;

''(B) the benefit and cost of the project, including, in the case of a project at a reliever airport, the number of operations projected to be diverted from a primary airport to the reliever airport as a result of the project, as well as the cost savings projected to be realized by users of the local airport system;

''(C) the financial commitment from non-United States Government sources to preserve or improve airport capacity;

''(D) the airport improvement priorities of the States to the extent such priorities are not in conflict with subparagraphs (A) and (B);

''(E) the projected growth in the number of passengers or aircraft that will be using the airport at which the project will be carried out; and

''(F) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.

''(2) FOR ALL PROJECTS.—In selecting a project for a grant under this section, the Secretary shall consider among other factors whether—

''(A) funding has been provided for all other projects qualifying for funding during the fiscal year under this chapter that have attained a higher score under the numerical priority system employed by the Secretary in administering the fund; and

''(B) the sponsor will be able to commence the work identified in the project application in the fiscal year in which the grant is made or within 6 months after the grant is made, whichever is later.''.

SEC. 149. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) PROJECT GRANT AGREEMENTS.—Section 47108(a) is amended by inserting ''or 47114(d)(3)(A)'' after ''under section 47114(c)''.

(b) ALLOWABLE PROJECT COSTS.—Section 47110 is amended—

(1) in subsection (b)(2)(C) by striking ''of this title'' and inserting ''or section 47114(d)(3)(A)'';

(2) in subsection (g)—

(A) by inserting ''or section 47114(d)(3)(A)'' after ''of section 47114(c)''; and

(B) by striking ''of project'' and inserting ''of the project''; and

(3) by adding at the end the following:

''(h) NONPRIMARY AIRPORTS.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(d)(3)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.''.

(c) WAIVER.—Section 47117(c)(2) is amended to read as follows:

''(2) WAIVER.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(3)(A) if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.''.

(d) TERMINAL DEVELOPMENT COSTS.—Section 47119(b) is amended—

(1) by striking ''or'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; or''; and

(3) by adding at the end the following:

''(5) to a sponsor of a nonprimary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) for project costs allowable under section 47110(d).''.

SEC. 150. USE OF APPORTIONED AMOUNTS.

The first sentence of section 47117(b) is amended by striking ''primary airport'' and all that follows through ''calendar year'' and inserting ''nonhub airport or any airport that is not a commercial service airport''.

SEC. 151. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.

Section 47117(e)(1)(A) is amended—

(1) by striking ''At least 34 percent'' and inserting ''At least 35 percent'';

(2) by striking ''of this title and'' and inserting a comma;

(3) by striking ''of this title.'' and inserting '', for noise mitigation projects approved in an environmental record of decision for an airport development project under this title, for compatible land use planning and projects carried out by State and local governments under section 47141, and for airport development described in section 47102(3)(F), 47102(3)(K), or 47102(3)(L) to comply with the Clean Air Act (42 U.S.C. 7401 et seq.).''; and

(4) by striking ''34 percent requirement'' and inserting ''35 percent requirement''.

SEC. 152. PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by adding at the end the following:

''§ 47138. Pilot program for purchase of airport development rights

''(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

''(b) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant is made—

''(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

''(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

''(2) MATCHING REQUIREMENT.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

''(c) GRANT STANDARDS.—The Secretary shall prescribe standards for grants under subsection (a), including—

''(1) grant application and approval procedures; and

''(2) requirements for the content of the instrument recording the purchase of the development rights.

''(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determination that the transfer or disposal of that right is in the public interest.

''(e) LIMITATION.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

''47138. Pilot program for purchase of airport development rights.''.

SEC. 153. MILITARY AIRPORT PROGRAM.

Section 47118 is amended—

(1) in subsection (e) by striking ''Not more than $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available'' and inserting ''From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available'';

(2) in subsection (f) by striking ''Not more than a total of $7,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for fiscal years beginning after September 30, 1992, is available'' and inserting the following:

''(1) CONSTRUCTION.—From amounts the Secretary distributes to an airport under section 47115, $10,000,000 for each of fiscal years 2004 and 2005, and $7,000,000 for each fiscal year thereafter, is available''; and

(3) by adding at the end of subsection (f) the following:

''(2) REIMBURSEMENT.—Upon approval of the Secretary, the sponsor of a current or former military airport the Secretary designates under this section may use an amount apportioned under section 47114, or made available under section 47115 or 47117(e)(1)(B), to the airport for reimbursement of costs incurred by the airport in fiscal years 2003 and 2004 for construction, improvement, or repair described in paragraph (1).''.

SEC. 154. AIRPORT SAFETY DATA COLLECTION.

Section 47130 is amended to read as follows:

''§ 47130. Airport safety data collection

''Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. In the event that a grant is provided under this section, the United States Government's share of the cost of the data collection shall be 100 percent.''.

SEC. 155. AIRPORT PRIVATIZATION PILOT PROGRAM.

(a) IN GENERAL.—Section 47134(b)(1) is amended—

(1) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

''(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.'';

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

''(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor's application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor's application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not affect any application submitted before the date of enactment of this Act.

SEC. 156. INNOVATIVE FINANCING TECHNIQUES.

The first sentence of section 47135(a) is amended by inserting after ''approve'' the following: '', after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act,''.

SEC. 157. AIRPORT SECURITY PROGRAM.

Section 47137 is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) ADMINISTRATION.—The Secretary, in cooperation with the Secretary of Homeland Security, shall administer the program authorized by this section.''.

SEC. 158. EMISSION CREDITS FOR AIR QUALITY PROJECTS.

(a) EMISSIONS CREDIT.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47139. Emission credits for air quality projects

''(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall issue guidance on how to ensure that airport sponsors receive appropriate emission reduction credits for carrying out projects described in sections 40117(a)(3)(G), 47102(3)(F), 47102(3)(K), and 47102(3)(L). Such guidance shall include, at a minimum, the following conditions:

''(1) The provision of credits is consistent with the Clean Air Act (42 U.S.C. 7402 et seq.).

''(2) Credits generated by the emissions reductions are kept by the airport sponsor and may only be used for purposes of any current or future general conformity determination under the Clean Air Act or as offsets under the Environmental Protection Agency's new source review program for projects on the airport or associated with the airport.

''(3) Credits are calculated and provided to airports on a consistent basis nationwide.

''(4) Credits are provided to airport sponsors in a timely manner.

''(5) The establishment of a method to assure the Secretary that, for any specific airport project for which funding is being requested, the appropriate credits will be granted.

''(b) ASSURANCE OF RECEIPT OF CREDITS.—As a condition for making a grant for a project described in section 47102(3)(F), 47102(3)(K), 47102(3)(L), or 47140 or as a condition for granting approval to collect or use a passenger facility fee for a project described in section 40117(a)(3)(G), 47103(3)(F), 47102(3)(K), 47102(3)(L), or 47140, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal implementation plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this section.

''(c) PREVIOUSLY APPROVED PROJECTS.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall determine how to provide appropriate emissions credits to airport projects previously approved under section 47136 consistent with the guidance and conditions specified in subsection (a).

''(d) STATE AUTHORITY UNDER CAA.—Nothing in this section shall be construed as overriding existing State law or regulation pursuant to section 116 of the Clean Air Act (42 U.S.C. 7416).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is further amended by inserting after the item relating to section 47138 the following:

''47139. Emission credits for air quality projects.''.

SEC. 159. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47140. Airport ground support equipment emissions retrofit pilot program

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount made available under section 48103 to retrofit existing eligible airport ground support equipment that burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

''(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) or a maintenance area referred to in section 175A of such Act (42 U.S.C. 7505a).

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

''(d) MAXIMUM AMOUNT.—Not more than $500,000 may be expended under the pilot program at any single commercial service airport.

''(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eligible under the pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

''(f) ELIGIBLE EQUIPMENT DEFINED.—In this section, the term 'eligible equipment' means ground service or maintenance equipment that is located at the airport, is used to support aeronautical and related activities at the airport, and will remain in operation at the airport for the life or useful life of the equipment, whichever is earlier.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 471 is further amended by inserting after the item relating to section 47139 the following:

''47140. Airport ground support equipment emissions retrofit pilot program.''.

(b) ACTIVITIES ADDED TO DEFINITION OF AIRPORT DEVELOPMENT.—

(1) IN GENERAL.—Section 47102(3) is amended—

(A) by striking subparagraphs (J), (K), and (L) and redesignating subparagraph (M) as subparagraph (J); and

(B) by adding at the end the following:

''(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47139.

''(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175A of the Clean Air Act (42 U.S.C. 7501(2); 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139.''.

(2) GUIDANCE.—

(A) ELIGIBLE LOW-EMISSION MODIFICATIONS AND IMPROVEMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(K) of title 49, United States Code, as added by this subsection.

(B) ELIGIBLE LOW-EMISSION VEHICLE TECHNOLOGY.—The Secretary, in consultation with the Administrator, shall issue guidance describing eligible low-emission vehicle technology, and stating how airport sponsors will demonstrate benefits, under section 47102(3)(L) of title 49, United States Code, as added by this subsection.

(c) ALLOWABLE PROJECT COST.—Section 47110(b) is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(3) by adding at the end the following:

''(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary.''.

(d) LOW-EMISSION TECHNOLOGY EQUIPMENT.—Section 47102 (as amended by section 801 of this Act) is further amended by inserting after paragraph (10) the following:

''(11) 'low-emission technology' means technology for vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially nonpetroleum based, as defined by the Department of Energy, but not excluding hybrid systems or natural gas powered vehicles.''.

SEC. 160. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§ 47141. Compatible land use planning and projects by State and local governments

''(a) IN GENERAL.—The Secretary of Transportation may make grants, from amounts set aside under section 47117(e)(1)(A), to States and units of local government for development and implementation of land use compatibility plans and implementation of land use compatibility projects resulting from those plans for the purposes of making the use of land areas around large hub airports and medium hub airports compatible with aircraft operations. The Secretary may make a grant under this section for a land use compatibility plan or a project resulting from such plan only if—

''(1) the airport operator has not submitted a noise compatibility program to the Secretary under section 47504 or has not updated such program within the preceding 10 years; and

''(2) the land use plan or project meets the requirements of this section.

''(b) ELIGIBILITY.—In order to receive a grant under this section, a State or unit of local government must—

''(1) have the authority to plan and adopt land use control measures, including zoning, in the planning area in and around a large or medium hub airport;

''(2) enter into an agreement with the airport owner or operator that the development of the land use compatibility plan will be done cooperatively; and

''(3) provide written assurance to the Secretary that it will achieve, to the maximum extent possible, compatible land uses consistent with Federal land use compatibility criteria under section 47502(3) and that those compatible land uses will be maintained.

''(c) ASSURANCES.—The Secretary shall require a State or unit of local government to which a grant may be made under this section for a land use plan or a project resulting from such plan to provide—

''(1) assurances satisfactory to the Secretary that the plan—

''(A) is reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses;

''(B) addresses ways to achieve and maintain compatible land uses, including zoning, building codes, and any other land use compatibility measures under section 47504(a)(2) that are within the authority of the State or unit of local government to implement;

''(C) uses noise contours provided by the airport operator that are consistent with the airport operation and planning, including any

noise abatement measures adopted by the airport operator as part of its own noise mitigation efforts;

''(D) does not duplicate, and is not inconsistent with, the airport operator's noise compatibility measures for the same area; and

''(E) has been approved jointly by the airport owner or operator and the State or unit of local government; and

''(2) such other assurances as the Secretary determines to be necessary to carry out this section.

''(d) GUIDELINES.—The Secretary shall establish guidelines to administer this section in accordance with the purposes and conditions described in this section. The Secretary may require a State or unit of local government to which a grant may be made under this section to provide progress reports and other information as the Secretary determines to be necessary to carry out this section.

''(e) ELIGIBLE PROJECTS.—The Secretary may approve a grant under this section to a State or unit of local government for a project resulting from a land use compatibility plan only if the Secretary is satisfied that the project is consistent with the guidelines established by the Secretary under this section, the State or unit of local government has provided the assurances required by this section, the State or unit of local government has implemented (or has made provision to implement) those elements of the plan that are not eligible for Federal financial assistance, and that the project is not inconsistent with applicable Federal Aviation Administration standards.

''(f) SUNSET.—This section shall not be in effect after September 30, 2007.''.

(b) CONFORMING AMENDMENT.—The analysis of subchapter I of chapter 471 is further amended by adding at the end the following:

''47141. Compatible land use planning and projects by State and local governments.''.

SEC. 161. TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS.

Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in each of fiscal years 2004 through 2007 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 162. SHARE OF AIRPORT PROJECT COSTS.

(a) IN GENERAL.—Section 47109 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) GRANDFATHER RULE.—

''(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

''(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

''(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

''(2) LIMITATION.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).''.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 47109 is amended by striking ''Except as provided in subsection (b)'' and inserting ''Except as provided in subsection (b) or subsection (c)''.

SEC. 163. FEDERAL SHARE FOR PRIVATE OWNERSHIP OF AIRPORTS.

Section 47109(a)(4) is amended by striking ''40 percent'' and inserting ''70 percent''.

SEC. 164. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES.

Section 47107(c)(2)(A)(iii) is amended by inserting before the semicolon at the end the following: '', including the purchase of nonresidential buildings or property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program''.

SEC. 165. HANGAR CONSTRUCTION GRANT ASSURANCE.

Section 47107(a) is amended—

(1) by striking ''and'' at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting ''; and''; and

(3) by adding at the end the following:

''(21) if the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long-term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.''.

SEC. 166. TERMINAL DEVELOPMENT COSTS.

Section 47119(a) is amended to read as follows:

''(a) REPAYING BORROWED MONEY.—

''(1) TERMINAL DEVELOPMENT COSTS INCURRED AFTER JUNE 30, 1970, AND BEFORE JULY 12, 1976.—An amount apportioned under section 47114 and made available to the sponsor of a commercial service airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d) if they had been incurred after September 3, 1982.

''(2) TERMINAL DEVELOPMENT COSTS INCURRED BETWEEN JANUARY 1, 1992, AND OCTOBER 31, 1992.—An amount apportioned under section 47114 and made available to the sponsor of a nonhub airport at which terminal development was carried out between January 1, 1992, and October 31, 1992, is available to repay immediately money borrowed and to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

''(3) TERMINAL DEVELOPMENT COSTS AT PRIMARY AIRPORTS.—An amount apportioned under section 47114 or available under subsection (b)(3) to a primary airport—

''(A) that was a nonhub airport in the most recent year used to calculate apportionments under section 47114;

''(B) that is a designated airport under section 47118 in fiscal year 2003; and

''(C) at which terminal development is carried out between January 2003 and August 2004,

is available to repay immediately money borrowed and used to pay the costs for such terminal development if those costs would be allowable project costs under section 47110(d).

''(4) CONDITIONS FOR GRANT.—An amount is available for a grant under this subsection only if—

''(A) the sponsor submits the certification required under section 47110(d);

''(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

''(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 1 year beginning on the date the grant is used to repay the borrowed money.

''(5) APPLICABILITY OF CERTAIN LIMITATIONS.—A grant under this subsection shall be subject to the limitations in subsection (b)(1) and (2).''.

Subtitle D—Miscellaneous

SEC. 181. DESIGN-BUILD CONTRACTING.

(a) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

''§47142. Design-build contracting

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

''(1) the Administrator approves the application using criteria established by the Administrator;

''(2) the design-build contract is in a form that is approved by the Administrator;

''(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

''(4) use of a design-build contract will be cost effective and expedite the project;

''(5) the Administrator is satisfied that there will be no conflict of interest; and

''(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least 3 or more bids will be submitted for each project under the selection process.

''(b) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter if the project were carried out after a grant agreement had been executed.

''(c) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 471 is further amended by inserting after the item relating to section 47141 the following:

''47142. Design-build contracting.''.

SEC. 182. PILOT PROGRAM FOR INNOVATIVE FINANCING OF AIR TRAFFIC CONTROL EQUIPMENT.

(a) IN GENERAL.—In order to test the cost effectiveness and feasibility of long-term financing of modernization of major air traffic control systems, the Administrator of the Federal Aviation Administration may establish a pilot program to test innovative financing techniques through amending, subject to section 1341 of title 31, United States Code, a contract for more than one, but not more than 20, fiscal years to purchase and install air traffic control equipment for the Administration. Such amendments may be for more than one, but not more than 10, fiscal years.

(b) CANCELLATION.—A contract described in subsection (a) may include a cancellation provision if the Administrator determines that such a provision is necessary and in the best interest of the United States. Any such provision shall include a cancellation liability schedule that covers reasonable and allocable costs incurred by

the contractor through the date of cancellation plus reasonable profit, if any, on those costs. Any such provision shall not apply if the contract is terminated by default of the contractor.

(c) CONTRACT PROVISIONS.—If feasible and practicable for the pilot program, the Administrator may make an advance contract provision to achieve economic-lot purchases and more efficient production rates.

(d) LIMITATION.—The Administrator may not amend a contract under this section until the program for the terminal automation replacement systems has been rebaselined in accordance with the acquisition management system of the Administration.

(e) ANNUAL REPORTS.—At the end of each fiscal year during the term of the pilot program, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Administrator has implemented in such fiscal year the pilot program, the number and types of contracts or contract amendments that are entered into under the program, and the program's cost effectiveness.

(f) FUNDING.—Out of amounts appropriated under section 48101 for fiscal year 2004, such sums as may be necessary shall be available to carry out this section.

SEC. 183. COST SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end the following:

''§ 44517. Program to permit cost sharing of air traffic modernization projects

''(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control equipment and software.

''(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117.

''(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than $5,000,000 in Federal funds under the program.

''(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) to carry out the program.

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project to purchase equipment or software relating to the Nation's air traffic control system that is certified or approved by the Administrator of the Federal Aviation Administration and that promotes safety, efficiency, or mobility. Such projects may include—

''(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, and lighting improvements;

''(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

''(C) equipment and software that enhance airspace control procedures or assist in en route surveillance, including oceanic and offshore flight tracking.

''(2) PROJECT SPONSOR.—The term 'project sponsor' means any major user of the national airspace system, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

''(f) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, and upon agreement by the Administrator, a project sponsor may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

''(g) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program. The guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 445 is amended by adding at the end the following:

''44517. Program to permit cost sharing of air traffic modernization projects.''.

SEC. 184. FACILITIES AND EQUIPMENT REPORTS.

(a) BIANNUAL REPORTS.—Beginning 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes—

(1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;

(2) any changes in the budget for such programs;

(3) the program schedule; and

(4) technical risks associated with the programs.

(b) SUNSET PROVISION.—This section shall cease to be effective beginning on the date that is 4 years after the date of enactment of this Act.

SEC. 185. CIVIL PENALTY FOR PERMANENT CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

''§ 46319. Permanent closure of an airport without providing sufficient notice

''(a) PROHIBITION.—A public agency (as defined in section 47102) may not permanently close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

''(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

''(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of $10,000 for each day that the airport remains closed without having given the notice required by this section.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

''46319. Permanent closure of an airport without providing sufficient notice.''.

SEC. 186. MIDWAY ISLAND AIRPORT.

(a) FINDINGS.—Congress finds that the continued operation of the Midway Island Airport in accordance with the standards of the Federal Aviation Administration applicable to commercial airports is critical to the safety of commercial, military, and general aviation in the mid-Pacific Ocean region.

(b) MEMORANDUM OF UNDERSTANDING ON SALE OF AIRCRAFT FUEL.—The Secretaries of Transportation, Defense, Interior, and Homeland Security shall enter into a memorandum of understanding to facilitate the sale of aircraft fuel on Midway Island at a price that will generate sufficient revenue to improve the ability of the airport to operate on a self-sustaining basis in accordance with the standards of the Federal Aviation Administration applicable to commercial airports. The memorandum shall also address the long-range potential of promoting tourism as a means to generate revenue to operate the airport.

(c) TRANSFER OF NAVIGATION AIDS AT MIDWAY ISLAND AIRPORT.—The Midway Island Airport may transfer, without consideration, to the Administrator the navigation aids at the airport. The Administrator shall accept the navigation aids and operate and maintain the navigation aids under criteria of the Administrator.

(d) FUNDING TO SECRETARY OF THE INTERIOR FOR MIDWAY ISLAND AIRPORT.—The Secretary of Transportation may enter into a reimbursable agreement with the Secretary of the Interior for the purpose of funding airport development, as defined in section 47102(3) of title 49, United States Code, at Midway Island Airport for fiscal years ending before October 1, 2007, from amounts available in the discretionary fund established by section 47115 of such title. The maximum obligation under the agreement for any such fiscal year shall be $2,500,000.

SEC. 187. INTERMODAL PLANNING.

Section 47106(c)(1)(A) is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by adding ''and'' at the end of clause (ii); and

(3) by adding at the end the following:

''(iii) with respect to an airport development project involving the location of an airport, runway, or major runway extension at a medium or large hub airport, the airport sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted;''.

SEC. 188. MARSHALL ISLANDS, MICRONESIA, AND PALAU.

Section 47115 is amended by adding at the end the following:

''(j) MARSHALL ISLANDS, MICRONESIA, AND PALAU.—For fiscal years 2004 through 2007, the sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau shall be eligible for grants under this section and section 47116.''.

SEC. 189. LIMITATION ON APPROVAL OF CERTAIN PROGRAMS.

Section 47504(b) is amended by adding at the end the following:

''(4) The Secretary shall not approve in fiscal years 2004 through 2007 a program submitted under subsection (a) if the program requires the expenditure of funds made available under section 48103 for mitigation of aircraft noise less than 65 DNL.''.

SEC. 190. CONVEYANCE OF AIRPORT.

(a) OFFER OF CONVEYANCE.—Subject to the requirements of this section, the Chaluka Corporation is hereby offered ownership of the surface estate in the former Nikolski Radio Relay Site on Umnak Island, Alaska, and the Aleut Corporation is hereby offered the subsurface estate of that Site, in exchange for relinquishment by the Chaluka Corporation and the Aleut Corporation of Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska.

(b) ACCEPTANCE AND RELINQUISHMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall convey the land as provided in subsection (c) if the Chaluka Corporation and the Aleut Corporation take the actions specified in paragraphs (2) and (3), respectively.

(2) CHALUKA CORPORATION.—As a condition for conveyance under subsection (c), the Chaluka Corporation shall notify the Secretary of the Interior within 180 days after the date of enactment of this Act that, by means of a legally binding resolution of the Board of Directors, the Chaluka Corporation—

(A) accepts the offer under subsection (a);

(B) confirms that the area surveyed by the Bureau of Land Management for the purpose of

fulfilling the Chaluka Corporation's final entitlements under sections 12(a) and 12(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a) and (b)), identified as Group Survey Number 773, accurately represents the Chaluka Corporation's final, irrevocable Alaska Native Claims Settlement Act priorities and entitlements unless any tract in Group Survey Number 773 is ultimately not conveyed as the result of an appeal; and

(C) relinquishes Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska, which will be charged against the Chaluka Corporation's final entitlement under section 12(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(b)).

(3) ALEUT CORPORATION.—As a condition for the conveyance under subsection (c), the Aleut Corporation shall notify the Secretary of the Interior within 180 days after the date of enactment of this Act that, by means of a legally binding resolution of the Board of Directors, accompanied by the written legal opinion of counsel as to the legal sufficiency of the Board of Directors' action, the Aleut Corporation—

(A) accepts the offer under subsection (a); and

(B) relinquishes all rights to Lot 1, Section 14, Township 81 South, Range 133 West, Seward Meridian, Alaska.

(c) REQUIREMENT TO CONVEY.—

(1) CONVEYANCE.—Notwithstanding the existence of Public Land Order 2374, upon receipt from the Chaluka Corporation and from the Aleut Corporation of their acceptances made in accordance with the requirements of subsections (b)(2) and (b)(3), respectively, of the offer under subsection (a), the Secretary of the Interior shall convey to the Chaluka Corporation the surface estate, and to the Aleut Corporation the subsurface estate, of—

(A) Phase I lands as soon as practicable; and

(B) each parcel of Phase II lands upon completion of environmental restoration of Phase II lands in accordance with applicable law.

(2) PHASE I LIABILITY LIMIT.—Notwithstanding section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), neither the Chaluka Corporation nor the Aleut Corporation shall be subject to any liability for—

(A) the presence or release of a hazardous substance, as that term is defined by section 101(14) of that Act (16 U.S.C. 9601(14)), on Phase I lands or the presence of solid waste on Phase I lands, which predates conveyance of those lands to the Chaluka Corporation and the Aleut Corporation pursuant to this section; or

(B) any release, from any of the hazardous substances or solid wastes referred to in subparagraph (A), following conveyance of Phase I lands under this section, so long as the presence of or releases from those hazardous substances or solid wastes are not the result of actions by the Chaluka Corporation or the Aleut Corporation.

(3) CONTINUED ACCESS OVER HILL AND BEACH STREETS.—The surface estate conveyed under paragraph (1) shall be subject to the public's right of access over Hill and Beach Streets, located on Tract B of United States Survey 4904.

(d) TREATMENT AS ANCSA LANDS.—Conveyances made under subsection (c) shall be considered to be conveyances under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and are subject to the provisions of that Act except sections 14(c)(3), 14(c)(4), and 17(b)(3) (43 U.S.C. 1613(c)(3), 1613(c)(4), and 1616(b)(3)).

(e) AUTHORITY TO CONVEY CERTAIN OTHER LANDS.—The Secretary of the Interior shall at no cost to the recipient convey ownership of—

(1) an estate in fee simple in—

(A) each of Lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904 that is the subject of an Aleutian Housing Authority mutual help occupancy agreement, to the Aleutian Housing Authority; and

(B) the remainder of such Lots to the current occupants; and

(2) an estate in fee simple in the Nikolski powerhouse land, to—

(A) the Indian Reorganization Act Tribal Government for the Native Village of Nikolski, upon completion of the environmental restoration described in subsection (f), if after the restoration the powerhouse continues to be located on the Nikolski powerhouse land; or

(B) the surface estate to the Chaluka Corporation and the subsurface estate to the Aleut Corporation, if after the restoration, the Nikolski powerhouse is no longer located on the Nikolski powerhouse land.

(f) RESTORATION OF POWERHOUSE LAND.—The Denali Commission, in consultation with the appropriate agency of the State of Alaska, is authorized to arrange for environmental restoration, in accordance with applicable law, of the areas on, beneath, and adjacent to the Nikolski powerhouse land that are contaminated as a result of powerhouse operations and activities.

(g) ACCESS.—As a condition of the conveyance of land under subsection (c), the Chaluka Corporation shall permit the United States Government, and its agents, employees, and contractors, to have unrestricted access to the airfield at Nikolski in perpetuity for site investigation, restoration, remediation, and environmental monitoring of the former Nikolski Radio Relay Site and reasonable access to that airfield, and to other land conveyed under this section, for any activity associated with management of lands owned by the United States and for other governmental purposes without cost to the Government.

(h) SURVEY REQUIREMENTS.—

(1) BLM SURVEYS.—The Bureau of Land Management is not required to conduct additional on-the-ground surveys as a result of conveyances under this section. The patent to the Chaluka Corporation may be based on protracted section lines and lotting where relinquishment under subsection (b)(2)(C) results in a change to the Chaluka Corporation's final boundaries.

(2) MONUMENTATION.—No additional monumentation is required to complete those final boundaries.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) FEDERAL AGENCIES.—There is authorized to be appropriated to the Department of the Interior and other appropriate agencies such sums as are necessary to carry out the provisions of this section.

(2) POWERHOUSE LAND RESTORATION.—There is authorized to be appropriated $1,500,000 to reimburse the appropriate State of Alaska agency for costs required for environmental restoration of the Nikolski powerhouse land, in accordance with applicable law.

(j) TERMINATION.—This section shall cease to be effective if either the Chaluka Corporation or the Aleut Corporation affirmatively rejects the offer under subsection (a) or if after 180 days following the date of enactment of this Act either corporation has not taken the actions specified in subsection (b)(2) or (b)(3), respectively.

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) The term ''Aleut Corporation'' means the regional corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the region in which the Native Village of Nikolski, Alaska, is located.

(2) The term ''Chaluka Corporation'' means the village corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the Native Village of Nikolski, Alaska.

(3) The term ''former Nikolski Radio Relay Site'' means the portions of Tracts A, B, and C of Public Land Order 2374 that are surveyed as Tracts 37, 37A, 38, 39, and 39A of Township 83 South, Range 136 West, Seward Meridian, Alaska, and Tract B of United States Survey 4904, Alaska, except—

(A) Lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904; and

(B) the Nikolski powerhouse land.

(4) The term ''Nikolski powerhouse land'' means the parcel of land upon which is located the power generation building for supplying power to the Native Village of Nikolski, the boundaries of which are described generally as follows: Beginning at the point at which the southerly boundary of Tract 39 of Township 83 South, Range 136 West, Seward Meridian, Alaska, intersects the easterly boundary of the road that connects the Native Village of Nikolski and the airfield at Nikolski; then meandering in a northeasterly direction along the easterly boundary of that road until the road intersects the westerly boundary of the road that connects Umnak Lake and the airfield; then meandering in a southerly direction along the western boundary of that Umnak Lake road until that western boundary intersects the southern boundary of such Tract 39; then proceeding eastward along the southern boundary of such Tract 39 to the beginning point.

(5) The term ''Phase I lands'' means Tract 39 of Township 83 South, Range 136 West, Seward Meridian, excluding the Nikolski powerhouse land.

(6) The term ''Phase II lands'' means the portion of the former Nikolski Radio Relay Site not conveyed as Phase I lands.

TITLE II—FAA ORGANIZATION

Subtitle A—FAA Reform

SEC. 201. MANAGEMENT ADVISORY COMMITTEE MEMBERS.

Section 106(p) is amended—

(1) in the subsection heading by inserting ''AND AIR TRAFFIC SERVICES BOARD'' after ''COUNCIL''; and

(2) in paragraph (2)—

(A) by striking ''consist of'' and all that follows through ''members, who'' and inserting ''consist of 13 members, who'';

(B) by inserting after ''Senate'' in subparagraph (C)(i) '', except that initial appointments made after May 1, 2003, shall be made by the Secretary of Transportation'';

(C) by striking the semicolon at the end of subparagraph (C)(ii) and inserting ''; and''; and

(D) by striking ''employees, by—'' in subparagraph (D) and all that follows through the period at the end of subparagraph (E) and inserting ''employees, by the Secretary of Transportation.''.

SEC. 202. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

Section 106(p) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) QUALIFICATIONS.—No officer or employee of the United States Government may be appointed to the Council under paragraph (2)(C) or to the Air Traffic Services Committee.'';

(2) in paragraph (4)(C) by inserting ''or Air Traffic Services Committee'' after ''Council'' each place it appears;

(3) in paragraph (5) by inserting '', the Air Traffic Services Committee,'' after ''Council'';

(4) in paragraph (6)(C)—

(A) by striking ''SUBCOMMITTEE'' in the subparagraph heading and inserting ''COMMITTEE'';

(B) by striking ''member'' and inserting ''members'';

(C) by striking ''under paragraph (2)(E)'' the first place it appears and inserting ''to the Air Traffic Services Committee''; and

(D) by striking ''of the members first'' and all that follows through the period at the end and inserting ''the first members of the Committee shall be the members of the Air Traffic Services Subcommittee of the Council on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act who shall serve in an advisory capacity until such time as the President appoints the members of the Committee under paragraph (7).'';

(5) in paragraph (6)(D) by striking ''under paragraph (2)(E)'' and inserting ''to the Committee'';

(6) in paragraph (6)(E) by inserting ''or Committee'' after ''Council'';

(7) in paragraph (6)(F) by inserting ''of the Council or Committee'' after ''member'';

(8) in the second sentence of subparagraph (6)(G)—

(A) by striking ''Council'' and inserting ''Committee''; and

(B) by striking ''appointed under paragraph (2)(E)'';

(9) in paragraph (6)(H)—

(A) by striking ''SUBCOMMITTEE'' in the subparagraph heading and inserting ''COMMITTEE'';

(B) by striking ''under paragraph (2)(E)'' in clause (i) and inserting ''to the Committee''; and

(C) by striking ''Air Traffic Services Subcommittee'' and inserting ''Committee'';

(10) in paragraph (6)(I)(i)—

(A) by striking ''appointed under paragraph (2)(E) is'' and inserting ''is serving as''; and

(B) by striking ''Subcommittee'' and inserting ''Committee'';

(11) in paragraph (6)(I)(ii)—

(A) by striking ''appointed under paragraph (2)(E)'' and inserting ''who is a member of the Committee''; and

(B) by striking ''Subcommittee'' and inserting ''Committee'';

(12) in paragraph (6)(K) by inserting ''or Committee'' after ''Council'';

(13) in paragraph (6)(L) by inserting ''or Committee'' after ''Council'' each place it appears; and

(14) in paragraph (7)—

(A) by striking ''SUBCOMMITTEE'' in the paragraph heading and inserting ''COMMITTEE'';

(B) by striking subparagraph (A) and inserting the following:

''(A) ESTABLISHMENT.—The Administrator shall establish a committee that is independent of the Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the day before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, into such committee. The committee shall be known as the Air Traffic Services Committee (in this subsection referred to as the 'Committee').'';

(C) by redesignating subparagraphs (B) through (F) as subparagraphs (D) through (H), respectively;

(D) by inserting after subparagraph (A) the following:

''(B) MEMBERSHIP AND QUALIFICATIONS.—Subject to paragraph (6)(C), the Committee shall consist of five members, one of whom shall be the Administrator and shall serve as chairperson. The remaining members shall be appointed by the President with the advice and consent of the Senate and—

''(i) shall have a fiduciary responsibility to represent the public interest;

''(ii) shall be citizens of the United States; and

''(iii) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in all of the following areas:

''(I) Management of large service organizations.

''(II) Customer service.

''(III) Management of large procurements.

''(IV) Information and communications technology.

''(V) Organizational development.

''(VI) Labor relations.

''(C) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member of the Committee may—

''(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

''(ii) engage in another business related to aviation or aeronautics; or

''(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.'';

(E) by striking ''Subcommittee'' each place it appears in subparagraphs (D) and (E) (as redesignated by subparagraph (C) of this paragraph) and inserting ''Committee'';

(F) by striking ''approve'' in subparagraph (E)(v)(I) (as so redesignated) and inserting ''make recommendations on'';

(G) by striking ''request'' in subparagraph (E)(v)(II) (as so redesignated) and inserting ''recommendations'';

(H) by striking ''ensure that the budget request supports'' in subparagraph (E)(v)(III) (as so redesignated) and inserting ''base such budget recommendations on'';

(I) by striking ''The Secretary shall submit'' in subparagraph (E) (as so redesignated) and all that follows through the period at the end of such subparagraph (E);

(J) by striking subparagraph (F) (as so redesignated) and inserting the following:

''(F) COMMITTEE PERSONNEL MATTERS AND EXPENSES.—

''(i) PERSONNEL MATTERS.—The Committee may appoint and terminate for purposes of employment by the Committee any personnel that may be necessary to enable the Committee to perform its duties, and may procure temporary and intermittent services under section 40122.

''(ii) TRAVEL EXPENSES.—Each member of the Committee shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.'';

(K) in subparagraph (G) (as so redesignated)—

(i) by striking clause (i);

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(iii) by striking ''Subcommittee'' each place it appears in clauses (i), (ii), and (iii) (as so redesignated) and inserting ''Committee'';

(L) in subparagraph (H) (as so redesignated)—

(i) by striking ''Subcommittee'' each place it appears and inserting ''Committee'';

(ii) by striking ''Administrator, the Council'' each place it appears in clauses (i) and (ii) and inserting ''Secretary''; and

(iii) in clause (ii) by striking ''(B)(i)'' and inserting ''(D)(i)''; and

(M) by adding at the end the following:

''(I) AUTHORIZATION.—There are authorized to be appropriated to the Committee such sums as may be necessary for the Committee to carry out its activities.''.

SEC. 203. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER.

Section 106(r) is amended—

(1) in each of paragraphs (1)(A) and (2)(A) by striking ''Air Traffic Services Subcommittee of the Aviation Management Advisory Council'' and inserting ''Air Traffic Services Committee'';

(2) in paragraph (2)(B) by inserting ''in'' before ''paragraph (3).'';

(3) in paragraph (3) by striking ''Air Traffic Control Subcommittee of the Aviation Management Advisory Committee'' and inserting ''Air Traffic Services Committee'';

(4) in paragraph (4) by striking ''Transportation and Congress'' and inserting ''Transportation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate'';

(5) in paragraph (5)(A)—

(A) by striking ''develop a'' and inserting ''implement the''; and

(B) by striking '', including the establishment of'' and inserting ''in order to further'';

(6) in paragraph (5)(B)—

(A) by striking ''review'' and all that follows through ''Administration,'' and inserting ''oversee the day-to-day operational functions of the Administration for air traffic control,'';

(B) by striking ''and'' at the end of clause (ii);

(C) by striking the period at the end of clause (iii) and inserting ''; and''; and

(D) by adding at the end the following:

''(iv) the management of cost-reimbursable contracts.'';

(7) in paragraph (5)(C)(i) by striking ''prepared by the Administrator'';

(8) in paragraph (5)(C)(ii) by striking ''and the Secretary of Transportation'' and inserting ''and the Committee''; and

(9) in paragraph (5)(C)(iii)—

(A) by inserting ''agency's'' before ''annual''; and

(B) by striking ''developed under subparagraph (A) of this subsection.'' and inserting ''for air traffic control services.''.

SEC. 204. DEPUTY ADMINISTRATOR.

Section 106(d) is amended—

(1) by redesignating paragraphs (2) and (3) as (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) The annual rate of basic pay of the Deputy Administrator shall be set by the Secretary but shall not exceed the annual rate of basic pay payable to the Administrator of the Federal Aviation Administration.''.

Subtitle B—Miscellaneous

SEC. 221. CONTROLLER STAFFING.

(a) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2005, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

(b) HUMAN CAPITAL WORKFORCE STRATEGY.—

(1) DEVELOPMENT.—The Administrator shall develop a comprehensive human capital workforce strategy to determine the most effective method for addressing the need for more air traffic controllers that is identified in the June 2002 report of the General Accounting Office.

(2) COMPLETION DATE.—Not later than 1 year after the date of enactment of this Act, the Administrator shall complete development of the strategy.

(3) REPORT.—Not later than 30 days after the date on which the strategy is completed, the Administrator shall transmit to Congress a report describing the strategy.

SEC. 222. WHISTLEBLOWER PROTECTION UNDER ACQUISITION MANAGEMENT SYSTEM.

Section 40110(d)(2)(C) is amended by striking ''355).'' and inserting ''355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term 'executive agency' is deemed to refer to the Federal Aviation Administration.''.

SEC. 223. FAA PURCHASE CARDS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall take appropriate actions to implement the recommendations contained in the report of the General Accounting Office entitled ''FAA Purchase Cards: Weak Controls Resulted in Instances of Improper and Wasteful Purchases and Missing Assets'', numbered GAO–03–405 and dated March 21, 2003.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall transmit to Congress a report containing a description of the actions taken by the Administrator under this section.

SEC. 224. PROCUREMENT.

(a) DUTIES AND POWERS.—Section 40110(c) is amended—

(1) by striking ''Administration—'' and all that follows through ''(2) may—'' and inserting ''Administration may—'';

(2) by striking subparagraph (D);

(3) by redesignating subparagraphs (A), (B), (C), (E), and (F) as paragraphs (1), (2), (3), (4), and (5), respectively; and

(4) by moving such paragraphs (1) through (5) 2 ems to the left.

(b) ACQUISITION MANAGEMENT SYSTEM.—Section 40110(d) is amended—

(1) in paragraph (1)—

(A) by striking '', not later than January 1, 1996,''; and

(B) by striking ''provides for more timely and cost-effective acquisitions of equipment and materials.'' and inserting the following:

''provides for—

''(A) more timely and cost-effective acquisitions of equipment, services, property, and materials; and

''(B) the resolution of bid protests and contract disputes related thereto, using consensual alternative dispute resolution techniques to the maximum extent practicable.''; and

(2) by striking paragraph (4), relating to the effective date, and inserting the following:

''(4) ADJUDICATION OF CERTAIN BID PROTESTS AND CONTRACT DISPUTES.—A bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under section 46110 and to section 504 of title 5.''.

(c) AUTHORITY OF ADMINISTRATOR TO ACQUIRE SERVICES.—Section 106(f)(2)(A)(ii) is amended by inserting '', services,'' after ''property''.

SEC. 225. DEFINITIONS.

(a) IN GENERAL.—Section 40102(a) is amended—

(1) by redesignating paragraphs (38) through (42) as paragraphs (43) through (47), respectively;

(2) by inserting after paragraph (37) the following:

''(42) 'small hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.'';

(3) by redesignating paragraphs (33) through (37) as paragraphs (37) through (41) respectively;

(4) by inserting after paragraph (32) the following:

''(36) 'passenger boardings'—

''(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

''(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.'';

(5) by redesignating paragraph (32) as paragraph (35);

(6) by inserting after paragraph (31) the following:

''(34) 'nonhub airport' means a commercial service airport (as defined in section 47102) that has less than 0.05 percent of the passenger boardings.'';

(7) by redesignating paragraphs (30) and (31) as paragraphs (32) and (33), respectively;

(8) by inserting after paragraph (29) the following:

''(31) 'medium hub airport' means a commercial service airport (as defined in section 47102) that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.'';

(9) by redesignating paragraph (29) as paragraph (30); and

(10) by inserting after paragraph (28) the following:

''(29) 'large hub airport' means a commercial service airport (as defined in section 47102) that has at least 1.0 percent of the passenger boardings.''.

(b) CONFORMING AMENDMENTS.—

(1) AIR SERVICE TERMINATION NOTICE.—Section 41719(d) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) SMALL COMMUNITY AIR SERVICE.—Section 41731(a) is amended by striking paragraphs (3) through (5).

(3) AIRPORTS NOT RECEIVING SUFFICIENT SERVICE.—Section 41743 is amended—

(A) in subsection (c)(1) by striking ''(as that term is defined in section 41731(a)(5))''; and

(B) in subsection (f) by striking ''(as defined in section 41731(a)(3))''.

(4) PRESERVATION OF BASIC ESSENTIAL AIR SERVICE AT SINGLE CARRIER DOMINATED HUB AIRPORTS.—Section 41744(b) is amended by striking ''(as defined in section 41731)''.

(5) REGIONAL AIR SERVICE INCENTIVE PROGRAM.—Section 41762 is amended—

(A) by striking paragraphs (11) and (15); and

(B) by redesignating paragraphs (12), (13), (14), and (16) as paragraphs (11), (12), (13), and (14), respectively.

SEC. 226. AIR TRAFFIC CONTROLLER RETIREMENT.

(a) AIR TRAFFIC CONTROLLER DEFINED.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8331 of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (27);

(B) by striking the period at the end of paragraph (28) and inserting ''; and''; and

(C) by adding at the end the following:

''(29) the term 'air traffic controller' or 'controller' means—

''(A) a controller within the meaning of section 2109(1); and

''(B) a civilian employee of the Department of Transportation or the Department of Defense who is the immediate supervisor of a person described in section 2109(1)(B).''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (33);

(B) by striking the period at the end of paragraph (34) and inserting ''; and''; and

(C) by adding at the end the following:

''(35) the term 'air traffic controller' or 'controller' means—

''(A) a controller within the meaning of section 2109(1); and

''(B) a civilian employee of the Department of Transportation or the Department of Defense who is the immediate supervisor of a person described in section 2109(1)(B).''.

(3) MANDATORY SEPARATION TREATMENT NOT AFFECTED.—

(A) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8335(a) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8331(29)(A).''.

(B) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8425(a) of title 5, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, the term 'air traffic controller' or 'controller' has the meaning given to it under section 8401(35)(A).''.

(b) MODIFIED ANNUITY COMPUTATION RULE FOR CERTAIN AIR TRAFFIC CONTROLLERS UNDER FERS.—

(1) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) through (j) as subsections (f) through (k), respectively, and by redesignating the second subsection (i) as subsection (l); and

(B) by inserting after subsection (d) the following:

''(e) The annuity of an air traffic controller or former air traffic controller retiring under section 8412(a) is computed under subsection (a), except that if the individual has had at least 5 years of service as an air traffic controller as defined by section 2109(1)(A)(i), so much of the annuity as is computed with respect to such type of service shall be computed by multiplying 1 7/10 percent of the individual's average pay by the years of such service.''.

(2) CONFORMING AMENDMENTS.—(A) Section 8422(d)(2) of title 5, United States Code, is amended by striking ''8415(i)'' and inserting ''8415(j)''.

(B) Section 8452(d)(1) of such title is amended by striking ''subsection (f)'' and inserting ''subsection (g)''.

(C) Section 8468(b)(1)(A) of such title is amended by striking ''through (g)'' and inserting ''through (h)''.

(D) Section 302(a) of the Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8331 note) is amended—

(i) in paragraph (1)(D)(VI), by striking ''subsection (g)'' and inserting ''subsection (h)'';

(ii) in paragraph (9), by striking ''8415(f)'' and inserting ''8415(g)''; and

(iii) in paragraph (12)(B)(ii), by striking ''through (f)'' and inserting ''through (g)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section—

(A) shall take effect on the 60th day after the date of enactment of this Act; and

(B) shall apply with respect to—

(i) any annuity entitlement to which is based on an individual's separation from service occurring on or after the effective date of this section; and

(ii) any service performed by any such individual before, on, or after the effective date of this section, subject to paragraph (2).

(2) SPECIAL RULE.—

(A) DEPOSIT REQUIREMENT.—For purposes of determining eligibility for immediate retirement under section 8412(e) of title 5, United States Code, the amendment made by subsection (a)(2) shall, with respect to any service described in subparagraph (B), be disregarded unless there is deposited into the Civil Service Retirement and Disability Fund, with respect to such service, in such time, form, and manner as the Office of Personnel Management by regulation requires, an amount equal to the amount by which—

(i) the deductions from pay which would have been required for such service if the amendments made by subsection (a)(2) had been in effect when such service was performed, exceeds

(ii) the unrefunded deductions or deposits actually made under subchapter II of chapter 84 of such title with respect to such service. An amount under this subparagraph shall include interest, computed under paragraphs (2) and (3) of section 8334(e) of such title 5.

(B) PRIOR SERVICE DESCRIBED.—This paragraph applies with respect to any service performed by an individual before the effective date of this section as an employee described in section 8401(35)(B) of title 5, United States Code (as amended by subsection (a)(2)).

SEC. 227. DESIGN ORGANIZATION CERTIFICATES.

(a) GENERAL AUTHORITY TO ISSUE CERTIFICATES.—Effective on the last day of the 7-year period beginning on the date of enactment of this Act, section 44702(a) is amended by inserting ''design organization certificates,'' after ''airman certificates,''.

(b) DESIGN ORGANIZATION CERTIFICATES.—

(1) PLAN.—Not later than 4 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the

development and oversight of a system for certification of design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) of title 49, United States Code, for the type certification of aircraft, aircraft engines, propellers, or appliances.

(2) ISSUANCE OF CERTIFICATES.—Section 44704 is amended by adding at the end the following:

''(e) DESIGN ORGANIZATION CERTIFICATES.—

''(1) ISSUANCE.—Beginning 7 years after the date of enactment of this subsection, the Administrator may issue a design organization certificate to a design organization to authorize the organization to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

''(2) APPLICATIONS.—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization submitting the application, in accordance with regulations to be prescribed by the Administrator, to determine whether the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a).

''(3) ISSUANCE OF TYPE CERTIFICATES BASED ON DESIGN ORGANIZATION CERTIFICATION.—The Administrator may rely on certifications of compliance by a design organization when making a finding under subsection (a).

''(4) PUBLIC SAFETY.—The Administrator shall include in a design organization certificate issued under this subsection terms required in the interest of safety.

''(5) NO EFFECT ON POWER OF REVOCATION.—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.''.

(c) REINSPECTION AND REEXAMINATION.—Section 44709(a) is amended by inserting ''design organization, production certificate holder,'' after ''appliance,''.

(d) PROHIBITIONS.—Section 44711(a)(7) is amended by striking ''agency'' and inserting ''agency, design organization certificate, ''.

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—Section 44704 is amended by striking the section designation and heading and inserting the following:

''§ 44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates''.

(2) CHAPTER ANALYSIS.—The analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

''44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates.''.

SEC. 228. JUDICIAL REVIEW.

The first sentence of section 46110(a) is amended—

(1) by striking ''safety''; and

(2) by striking ''under this part'' and inserting ''in whole or in part under this part, part B, or subsection (l) or (s) of section 114''.

SEC. 229. OVERFLIGHT FEES.

(a) ADOPTION AND LEGALIZATION OF CERTAIN RULES.—

(1) APPLICABILITY AND EFFECT OF CERTAIN LAW.—Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, is deemed to apply to and to have effect with respect to the authority of the Administrator of the Federal Aviation Administration with respect to the interim final rule and final rule, relating to overflight fees, issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

(2) ADOPTION AND LEGALIZATION.—The interim final rule and final rule referred to in subsection (a), including the fees issued pursuant to those rules, are adopted, legalized, and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically adopted, authorized, and directed as of the date those rules were originally issued.

(3) FEES TO WHICH APPLICABLE.—This subsection applies to fees assessed after November 19, 2001, and before April 8, 2003, and fees collected after the requirements of subsection (b) have been met.

(b) DEFERRED COLLECTION OF FEES.—The Administrator shall defer collecting fees under section 45301(a)(1) of title 49, United States Code, until the Administrator (1) reports to Congress responding to the issues raised by the court in Air Transport Association of Canada v. Federal Aviation Administration and Administrator, FAA, decided on April 8, 2003, and (2) consults with users and other interested parties regarding the consistency of the fees established under such section with the international obligations of the United States.

(c) ENFORCEMENT.—The Administrator shall take an appropriate enforcement action under subtitle VII of title 49, United States Code, against any user that does not pay a fee under section 45301(a)(1) of such title.

TITLE III—ENVIRONMENTAL PROCESS

Subtitle A—Aviation Development Streamlining

SEC. 301. SHORT TITLE.

This title may be cited as ''Aviation Streamlining Approval Process Act of 2003''.

SEC. 302. FINDINGS.

Congress finds that—

(1) airports play a major role in interstate and foreign commerce;

(2) congestion and delays at our Nation's major airports have a significant negative impact on our Nation's economy;

(3) airport capacity enhancement projects at congested airports are a national priority and should be constructed on an expedited basis;

(4) airport capacity enhancement projects must include an environmental review process that provides local citizenry an opportunity for consideration of and appropriate action to address environmental concerns; and

(5) the Federal Aviation Administration, airport authorities, communities, and other Federal, State, and local government agencies must work together to develop a plan, set and honor milestones and deadlines, and work to protect the environment while sustaining the economic vitality that will result from the continued growth of aviation.

SEC. 303. AIRPORT CAPACITY ENHANCEMENT.

Section 40104 is amended by adding at the end the following:

''(c) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—In carrying out subsection (a), the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports as those terms are defined in section 47176.''.

SEC. 304. AVIATION PROJECT STREAMLINING.

(a) IN GENERAL.—Chapter 471 is amended by inserting after subchapter II the following:

''SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

''§ 47171. Expedited, coordinated environmental review process

''(a) AVIATION PROJECT REVIEW PROCESS.—The Secretary of Transportation shall develop and implement an expedited and coordinated environmental review process for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects that—

''(1) provides for better coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(2) provides that all environmental reviews, analyses, opinions, permits, licenses, and approvals that must be issued or made by a Federal agency or airport sponsor for such a project will be conducted concurrently, to the maximum extent practicable; and

''(3) provides that any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal agency or airport sponsor for such a project will be completed within a time period established by the Secretary, in cooperation with the agencies identified under subsection (d) with respect to the project.

''(b) AVIATION PROJECTS SUBJECT TO A STREAMLINED ENVIRONMENTAL REVIEW PROCESS.—

''(1) AIRPORT CAPACITY ENHANCEMENT PROJECTS AT CONGESTED AIRPORTS.—An airport capacity enhancement project at a congested airport shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

''(2) AVIATION SAFETY AND AVIATION SECURITY PROJECTS.—

''(A) IN GENERAL.—The Administrator of the Federal Aviation Administration may designate an aviation safety project or aviation security project for priority environmental review. The Administrator may not delegate this designation authority. A designated project shall be subject to the coordinated and expedited environmental review process requirements set forth in this section.

''(B) PROJECT DESIGNATION CRITERIA.—The Administrator shall establish guidelines for the designation of an aviation safety project or aviation security project for priority environmental review. Such guidelines shall provide for consideration of—

''(i) the importance or urgency of the project;

''(ii) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(iii) the need for cooperation and concurrent reviews by other Federal or State agencies;

''(iv) the prospect for undue delay if the project is not designated for priority review; and

''(v) for aviation security projects, the views of the Department of Homeland Security.

''(c) HIGH PRIORITY OF AND AGENCY PARTICIPATION IN COORDINATED REVIEWS.—

''(1) HIGH PRIORITY FOR ENVIRONMENTAL REVIEWS.—Each Federal agency with jurisdiction over an environmental review, analysis, opinion, permit, license, or approval shall accord any such review, analysis, opinion, permit, license, or approval involving an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2) the highest possible priority and conduct the review, analysis, opinion, permit, license, or approval expeditiously.

''(2) AGENCY PARTICIPATION.—Each Federal agency described in subsection (d) shall formulate and implement administrative, policy, and procedural mechanisms to enable the agency to participate in the coordinated environmental review process under this section and to ensure completion of environmental reviews, analyses, opinions, permits, licenses, and approvals described in subsection (a) in a timely and environmentally responsible manner.

''(d) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to each airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2), the Secretary shall identify, as soon as practicable, all Federal and State agencies that may have jurisdiction over environmental-related matters

that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project.

''(e) STATE AUTHORITY.—Under a coordinated review process being implemented under this section by the Secretary with respect to a project at an airport within the boundaries of a State, the Governor of the State, consistent with State law, may choose to participate in such process and provide that all State agencies that have jurisdiction over environmental-related matters that may be affected by the project or may be required by law to conduct an environmental-related review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project, be subject to the process.

''(f) MEMORANDUM OF UNDERSTANDING.—The coordinated review process developed under this section may be incorporated into a memorandum of understanding for a project between the Secretary and the heads of other Federal and State agencies identified under subsection (d) with respect to the project and, if applicable, the airport sponsor.

''(g) USE OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAMS.—

''(1) IN GENERAL.—The Secretary may utilize an interagency environmental impact statement team to expedite and coordinate the coordinated environmental review process for a project under this section. When utilizing an interagency environmental impact statement team, the Secretary shall invite Federal, State and Tribal agencies with jurisdiction by law, and may invite such agencies with special expertise, to participate on an interagency environmental impact statement team.

''(2) RESPONSIBILITY OF INTERAGENCY ENVIRONMENTAL IMPACT STATEMENT TEAM.—Under a coordinated environmental review process being implemented under this section, the interagency environmental impact statement team shall assist the Federal Aviation Administration in the preparation of the environmental impact statement. To facilitate timely and efficient environmental review, the team shall agree on agency or Tribal points of contact, protocols for communication among agencies, and deadlines for necessary actions by each individual agency (including the review of environmental analyses, the conduct of required consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals). The members of the team may formalize their agreement in a written memorandum.

''(h) LEAD AGENCY RESPONSIBILITY.—The Federal Aviation Administration shall be the lead agency for projects designated under subsection (b)(2) and airport capacity enhancement projects at congested airports and shall be responsible for defining the scope and content of the environmental impact statement, consistent with regulations issued by the Council on Environmental Quality. Any other Federal agency or State agency that is participating in a coordinated environmental review process under this section shall give substantial deference, to the extent consistent with applicable law and policy, to the aviation expertise of the Federal Aviation Administration.

''(i) EFFECT OF FAILURE TO MEET DEADLINE.—

''(1) NOTIFICATION OF CONGRESS AND CEQ.—If the Secretary determines that a Federal agency, State agency, or airport sponsor that is participating in a coordinated review process under this section with respect to a project has not met a deadline established under subsection (a)(3) for the project, the Secretary shall notify, within 30 days of the date of such determination, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Council on Environmental Quality, and the agency or sponsor involved about the failure to meet the deadline.

''(2) AGENCY REPORT.—Not later than 30 days after date of receipt of a notice under paragraph (1), the agency or sponsor involved shall submit a report to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Council on Environmental Quality explaining why the agency or sponsor did not meet the deadline and what actions it intends to take to complete or issue the required review, analysis, opinion, permit, license, or approval.

''(j) PURPOSE AND NEED.—For any environmental review, analysis, opinion, permit, license, or approval that must be issued or made by a Federal or State agency that is participating in a coordinated review process under this section and that requires an analysis of purpose and need for the project, the agency, notwithstanding any other provision of law, shall be bound by the project purpose and need as defined by the Secretary.

''(k) ALTERNATIVES ANALYSIS.—The Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport or a project designated under subsection (b)(2). Any other Federal agency, or State agency that is participating in a coordinated review process under this section with respect to the project shall consider only those alternatives to the project that the Secretary has determined are reasonable.

''(l) SOLICITATION AND CONSIDERATION OF COMMENTS.—In applying subsections (j) and (k), the Secretary shall solicit and consider comments from interested persons and governmental entities in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.).

''(m) MONITORING BY TASK FORCE.—The Transportation Infrastructure Streamlining Task Force, established by Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews), may monitor airport projects that are subject to the coordinated review process under this section.

''§ 47172. Air traffic procedures for airport capacity enhancement projects at congested airports

''(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of an airport capacity enhancement project at a congested airport that involves the construction of new runways or the reconfiguration of existing runways during the environmental planning process for the project. If the Administrator determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, the Administrator may commit, at the request of the airport sponsor and in a manner consistent with applicable Federal law, to prescribing such procedures in any record of decision approving the project.

''(b) MODIFICATION.—Notwithstanding any commitment by the Administrator under subsection (a), the Administrator may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

''§ 47173. Airport funding of FAA staff

''(a) ACCEPTANCE OF SPONSOR-PROVIDED FUNDS.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under section 47114(c), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review, and completion of environmental activities associated with an airport development project.

''(b) ADMINISTRATIVE PROVISION.—Instead of payment from an airport sponsor from funds apportioned to the sponsor under section 47114, the Administrator, with agreement of the sponsor, may transfer funds that would otherwise be apportioned to the sponsor under section 47114 to the account used by the Administrator for activities described in subsection (a).

''(c) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b)—

''(1) shall be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted;

''(2) shall be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and

''(3) shall remain available until expended.

''(d) MAINTENANCE OF EFFORT.—No funds may be accepted pursuant to subsection (a), or transferred pursuant to subsection (b), in any fiscal year in which the Federal Aviation Administration does not allocate at least the amount it expended in fiscal year 2002 (excluding amounts accepted pursuant to section 337 of the Department of Transportation and Related Agencies Appropriations Act, 2002 (115 Stat. 862)) for the activities described in subsection (a).

''§ 47174. Authorization of appropriations

''In addition to the amounts authorized to be appropriated under section 106(k), there is authorized to be appropriated to the Secretary of Transportation, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502), $4,200,000 for fiscal year 2004 and for each fiscal year thereafter to facilitate the timely processing, review, and completion of environmental activities associated with airport capacity enhancement projects at congested airports.

''§ 47175. Definitions

''In this subchapter, the following definitions apply:

''(1) AIRPORT SPONSOR.—The term 'airport sponsor' has the meaning given the term 'sponsor' under section 47102.

''(2) CONGESTED AIRPORT.—The term 'congested airport' means an airport that accounted for at least 1 percent of all delayed aircraft operations in the United States in the most recent year for which such data is available and an airport listed in table 1 of the Federal Aviation Administration's Airport Capacity Benchmark Report 2001.

''(3) AIRPORT CAPACITY ENHANCEMENT PROJECT.—The term 'airport capacity enhancement project' means—

''(A) a project for construction or extension of a runway, including any land acquisition, taxiway, or safety area associated with the runway or runway extension; and

''(B) such other airport development projects as the Secretary may designate as facilitating a reduction in air traffic congestion and delays.

''(4) AVIATION SAFETY PROJECT.—The term 'aviation safety project' means an aviation project that—

''(A) has as its primary purpose reducing the risk of injury to persons or damage to aircraft and property, as determined by the Administrator; and

''(B)(i) is needed to respond to a recommendation from the National Transportation Safety Board, as determined by the Administrator; or

''(ii) is necessary for an airport to comply with part 139 of title 14, Code of Federal Regulations (relating to airport certification).

''(5) AVIATION SECURITY PROJECT.—The term 'aviation security project' means a security project at an airport required by the Department of Homeland Security.

''(6) FEDERAL AGENCY.—The term 'Federal agency' means a department or agency of the United States Government.''.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

''SUBCHAPTER III—AVIATION DEVELOPMENT STREAMLINING

''47171. Expedited, coordinated environmental review process.

''47172. Air traffic procedures for airport capacity enhancement projects at congested airports.

''47173. Airport funding of FAA staff.

''47174. Authorization of appropriations.

''47175. Definitions.''.

SEC. 305. ELIMINATION OF DUPLICATIVE REQUIREMENTS.

Section 47106(c) is amended—

(1) by inserting ''and'' after the semicolon at the end of paragraph (1)(A)(iii) (as added by this Act);

(2) by striking subparagraph (B) of paragraph (1);

(3) by redesignating subparagraph (C) of paragraph (1) as subparagraph (B);

(4) in paragraph (2)(A) by striking ''stage 2'' and inserting ''stage 3'';

(5) by striking paragraph (4);

(6) by redesignating paragraph (5) as paragraph (4); and

(7) in paragraph (4) (as so redesignated) by striking ''(1)(C)'' and inserting ''(1)(B)''.

SEC. 306. CONSTRUCTION OF CERTAIN AIRPORT CAPACITY PROJECTS.

Section 47504(c)(2) is amended—

(1) by moving subparagraphs (C) and (D) 2 ems to the right;

(2) by striking ''and'' at the end of subparagraph (C);

(3) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(4) by adding at the end the following:

''(E) to an airport operator of a congested airport (as defined in section 47175) and a unit of local government referred to in paragraph (1)(B) of this subsection to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the Federal Aviation Administration for an airport capacity enhancement project (as defined in section 47175) even if that airport has not met the requirements of part 150 of title 14, Code of Federal Regulations.''.

SEC. 307. ISSUANCE OF ORDERS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall publish the final Federal Aviation Administration Order 1050.1E, Environmental Impacts: Policies and Procedures. Not later than 180 days after the date of publication of such final order, the Secretary shall publish for public comment the revised Federal Aviation Administration Order 5050.4B, Airport Environmental Handbook.

SEC. 308. LIMITATIONS.

Nothing in this subtitle, including any amendment made by this title, shall preempt or interfere with—

(1) any practice of seeking public comment;

(2) any power, jurisdiction, or authority that a State agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and

(3) any obligation to comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.) and the regulations issued by the Council on Environmental Quality to carry out such Act.

SEC. 309. RELATIONSHIP TO OTHER REQUIREMENTS.

The coordinated review process required under the amendments made by this subtitle shall apply to an airport capacity enhancement project at a congested airport whether or not the project is designated by the Secretary of Transportation as a high-priority transportation infrastructure project under Executive Order 13274 (67 Fed. Reg. 59449; relating to environmental stewardship and transportation infrastructure project reviews).

Subtitle B—Miscellaneous

SEC. 321. REPORT ON LONG-TERM ENVIRONMENTAL IMPROVEMENTS.

(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the National Aeronautics and Space Administration, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

(1) explore new operational procedures for aircraft to achieve those goals;

(2) identify both near-term and long-term options to achieve those goals;

(3) identify infrastructure changes that would contribute to attainment of those goals;

(4) identify emerging technologies that might contribute to attainment of those goals;

(5) develop a research plan for application of such emerging technologies, including new combustor and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

(b) REPORT.—The Secretary shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $500,000 for fiscal year 2004 to carry out this section.

SEC. 322. NOISE DISCLOSURE.

(a) NOISE DISCLOSURE SYSTEM IMPLEMENTATION STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensomeness of any such program, the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

(b) PUBLIC AVAILABILITY OF NOISE EXPOSURE MAPS.—The Administrator shall make noise exposure and land use information from noise exposure maps available to the public via the Internet on its website in an appropriate format.

(c) NOISE EXPOSURE MAP.—In this section, the term ''noise exposure map'' means a noise exposure map prepared under section 47503 of title 49, United States Code.

SEC. 323. OVERFLIGHTS OF NATIONAL PARKS.

(a) IN GENERAL.—Section 40128 is amended—

(1) in subsection (a)(1) by inserting '', as defined by this section,'' after ''lands'' the first place it appears;

(2) in subsections (b)(3)(A) and (b)(3)(B) by inserting ''over a national park'' after ''operations'';

(3) in subsection (b)(3)(C) by inserting ''over a national park that are also'' after ''operations'';

(4) in subsection (b)(3)(D) by striking ''at the park'' and inserting ''over a national park'';

(5) in subsection (b)(3)(E) by inserting ''over a national park'' after ''operations'' the first place it appears;

(6) in subsections (c)(2)(A)(i) and (c)(2)(B) by inserting ''over a national park'' after ''operations'';

(7) in subsection (f)(1) by inserting ''over a national park'' after ''operation'';

(8) in subsection (f)(4)(A)—

(A) by striking ''commercial air tour operation'' and inserting ''commercial air tour operation over a national park''; and

(B) by striking ''park, or over tribal lands,'' and inserting ''park (except the Grand Canyon National Park), or over tribal lands (except those within or abutting the Grand Canyon National Park),'';

(9) in subsection (f)(4)(B) by inserting ''over a national park'' after ''operation''; and

(10) in the heading for paragraph (4) of subsection (f) by inserting ''OVER A NATIONAL PARK'' after ''OPERATION''.

(b) QUIET TECHNOLOGY RULEMAKING FOR AIR TOURS OVER GRAND CANYON NATIONAL PARK.—

(1) DEADLINE FOR RULE.—No later than January 2005, the Secretary of Transportation shall issue a final rule to establish standards for quiet technology that are reasonably achievable at Grand Canyon National Park, based on the Supplemental Notice of Proposed Rulemaking on Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park, published in the Federal Register on March 24, 2003.

(2) RESOLUTION OF DISPUTES.—Subject to applicable administrative law and procedures, if the Secretary determines that a dispute among interested parties (including outside groups) or government agencies cannot be resolved within a reasonable time frame and could delay finalizing the rulemaking described in subsection (a), or implementation of final standards under such rule, due to controversy over adoption of quiet technology routes, establishment of incentives to encourage adoption of such routes, establishment of incentives to encourage adoption of quite technology, or other measures to achieve substantial restoration of natural quiet, the Secretary shall refer such dispute to a recognized center for environmental conflict resolution.

SEC. 324. NOISE EXPOSURE MAPS.

Section 47503 is amended—

(1) in subsection (a) by striking ''1985,'' and inserting ''a forecast period that is at least 5 years in the future''; and

(2) by striking subsection (b) and inserting the following:

''(b) REVISED MAPS.—If, in an area surrounding an airport, a change in the operation of the airport would establish a substantial new noncompatible use, or would significantly reduce noise over existing noncompatible uses, that is not reflected in either the existing conditions map or forecast map currently on file with the Federal Aviation Administration, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use or noise reduction.''.

SEC. 325. IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS.

Not later than April 1, 2005, the Secretary of Transportation shall issue final regulations to implement Chapter 4 noise standards, consistent with the recommendations adopted by the International Civil Aviation Organization.

SEC. 326. REDUCTION OF NOISE AND EMISSIONS FROM CIVILIAN AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to reducing community exposure to civilian aircraft noise or emissions through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities for developing and testing noise reduction engine technology.

(b) DESIGNATION OF INSTITUTE AS A CENTER OF EXCELLENCE.—The Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Noise and Emission Research.

SEC. 327. SPECIAL RULE FOR AIRPORT IN ILLINOIS.

(a) IN GENERAL.—Nothing in this title shall be construed to preclude the application of any provision of this Act to the State of Illinois or any other sponsor of a new airport proposed to be constructed in the State of Illinois.

(b) AUTHORITY OF THE GOVERNOR.—Nothing in this title shall be construed to preempt the authority of the Governor of the State of Illinois as of August 1, 2001, to approve or disapprove airport development projects.

TITLE IV—AIRLINE SERVICE IMPROVEMENTS

Subtitle A—Small Community Air Service

SEC. 401. EXEMPTION FROM HOLD-IN REQUIREMENTS.

Section 41734 is amended by adding at the end the following:

''(i) EXEMPTION FROM HOLD-IN REQUIREMENTS.—If, after the date of enactment of this subsection, an air carrier commences air transportation to an eligible place that is not receiving scheduled passenger air service as a result of the failure of the eligible place to meet requirements contained in an appropriations Act, the air carrier shall not be subject to the requirements of subsections (b) and (c) with respect to such air transportation.''.

SEC. 402. ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.

(a) IN GENERAL.—Section 41737 is amended by adding at the end the following:

''(e) ADJUSTMENTS TO ACCOUNT FOR SIGNIFICANTLY INCREASED COSTS.—

''(1) IN GENERAL.—If the Secretary determines that air carriers are experiencing significantly increased costs in providing air service or air transportation for which compensation is being paid under this subchapter, the Secretary may increase the rates of compensation payable under this subchapter without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

''(2) READJUSTMENT IF COSTS SUBSEQUENTLY DECLINE.—If an adjustment is made under paragraph (1), and total unit costs subsequently decrease to at least the total unit cost reflected in the compensation rate, then the Secretary may reverse the adjustment previously made under paragraph (1) without regard to any agreement or requirement relating to the renegotiation of contracts or any notice requirement under section 41734.

''(3) SIGNIFICANTLY INCREASED COSTS DEFINED.—In this subsection, the term 'significantly increased costs' means a total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the total unit cost reflected in the compensation rate, based on the carrier's internal audit of its financial statements if such cost increase is incurred for a period of at least 2 consecutive months.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 403. JOINT PROPOSALS.

Section 41740 is amended by inserting '', including joint fares,'' after ''joint proposals''.

SEC. 404. ESSENTIAL AIR SERVICE AUTHORIZATION.

Section 41742 is amended—

(1) in subsection (a)(2)—

(A) by striking ''$15,000,000'' and inserting ''$77,000,000''; and

(B) by inserting before the period at the end ''of which not more than $12,000,000 per fiscal year may be used for the marketing incentive program for communities and for State marketing assistance'';

(2) by adding at the end of subsection (a) the following:

''(3) AUTHORIZATION FOR ADDITIONAL EMPLOYEES.—In addition to amounts authorized under paragraphs (1) and (2), there are authorized to be appropriated such sums as may be necessary for the Secretary of Transportation to hire and employ 4 additional employees for the office responsible for carrying out the essential air service program.''; and

(3) by striking subsection (c).

SEC. 405. COMMUNITY AND REGIONAL CHOICE PROGRAMS.

Subchapter II of chapter 417 is amended by adding at the end the following:

''§ 41745. Community and regional choice programs

''(a) ALTERNATE ESSENTIAL AIR SERVICE PILOT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an alternate essential air service pilot program in accordance with the requirements of this section.

''(2) ASSISTANCE TO ELIGIBLE PLACES.—In carrying out the program, the Secretary, instead of paying compensation to an air carrier to provide essential air service to an eligible place, may provide assistance directly to a unit of local government having jurisdiction over the eligible place or a State within the boundaries of which the eligible place is located.

''(3) USE OF ASSISTANCE.—A unit of local government or State receiving assistance for an eligible place under the program may use the assistance for any of the following purposes:

''(A) To provide assistance to air carriers that will use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment if the Secretary determines that passenger safety would not be compromised by the use of such smaller equipment and if the State or unit of local government waives the minimum service requirements under section 41732(b).

''(B) To provide assistance to an air carrier to provide on-demand air taxi service to and from the eligible place.

''(C) To provide assistance to a person to provide scheduled or on-demand surface transportation to and from the eligible place and an airport in another place.

''(D) In combination with other units of local government in the same region, to provide transportation services to and from all the eligible places in that region at an airport or other transportation center that can serve all the eligible places in that region.

''(E) To purchase aircraft to provide transportation to and from the eligible place or to purchase a fractional share in an aircraft to provide such transportation after the effective date of a rule the Secretary issues relating to fractional ownership.

''(F) To pay for other transportation or related services that the Secretary may permit.

''(b) COMMUNITY FLEXIBILITY PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a pilot program for not more than 10 eligible places or consortia of units of local government.

''(2) ELECTION.—Under the program, the sponsor of an airport serving an eligible place may elect to forego any essential air service for which compensation is being provided under this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the compensation paid to provide such service in the most recent 12-month period.

''(3) GRANT.—Notwithstanding any other provision of law, the Secretary shall make a grant to each airport sponsor participating in the program for use on any project that—

''(A) is eligible for assistance under chapter 471 and complies with the requirements of that chapter;

''(B) is located on the airport property; or

''(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

''(c) FRACTIONALLY OWNED AIRCRAFT.—After the effective date of the rule referred to in subsection (a)(3)(E), only those operating rules that relate to an aircraft that is fractionally owned apply when an aircraft described in subsection (a)(3)(E) is used to provide transportation described in subsection (a)(3)(E).

''(d) APPLICATIONS.—

''(1) IN GENERAL.—An entity seeking to participate in a program under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

''(2) REQUIRED INFORMATION.—At a minimum, the application shall include—

''(A) a statement of the amount of compensation or assistance required; and

''(B) a description of how the compensation or assistance will be used.

''(e) PARTICIPATION REQUIREMENTS.—An eligible place for which compensation or assistance is provided under this section in a fiscal year shall not be eligible in that fiscal year for the essential air service that it would otherwise be entitled to under this subchapter.

''(f) SUBSEQUENT PARTICIPATION.—A unit of local government participating in the program under this subsection (a) in a fiscal year shall not be prohibited from participating in the basic essential air service program under this subchapter in a subsequent fiscal year if such unit is otherwise eligible to participate in such program.

''(g) FUNDING.—Amounts appropriated or otherwise made available to carry out the essential air service program under this subchapter shall be available to carry out this section.''.

SEC. 406. CODE-SHARING PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the Secretary may require air carriers providing service with compensation under subchapter II of chapter 417 of title 49, United States Code, and major air carriers (as defined in section 41716(a)(2) of such title) serving large hub airports (as defined in section 40102 of such title) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services.

(b) LIMITATION.—The Secretary may not require air carriers to participate in the pilot program under this section for more than 10 communities receiving service under subchapter II of chapter 417 of title 49, United States Code.

SEC. 407. TRACKING SERVICE.

Subchapter II of chapter 417 is further amended by adding at the end the following:

''§ 41746. Tracking service

''The Secretary of Transportation shall require a carrier that provides essential air service to an eligible place and that receives compensation for such service under this subchapter to report not less than semiannually—

''(1) the percentage of flights to and from the place that arrive on time as defined by the Secretary; and

''(2) such other information as the Secretary considers necessary to evaluate service provided to passengers traveling to and from such place.''.

SEC. 408. EAS LOCAL PARTICIPATION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 is further amended by adding at the end the following:

''§ 41747. EAS local participation program

''(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which not more than 10 designated essential air service communities located in proximity to hub airports are required to assume 10 percent of their essential air service subsidy costs for a 4-year period.

''(b) DESIGNATION OF COMMUNITIES.—

''(1) IN GENERAL.—The Secretary may not designate any community under this section unless it is located within 100 miles by road of a hub airport and is not located in a noncontiguous State. In making the designation, the Secretary may take into consideration the total traveltime between a community and the nearest hub airport, taking into account terrain, traffic, weather, road conditions, and other relevant factors.

''(2) ONE COMMUNITY PER STATE.—The Secretary may not designate—

''(A) more than 1 community per State under this section; or

''(B) a community in a State in which another community that is eligible to participate in the essential air service program has elected not to participate in the essential air service program as part of a pilot program under section 41745.

''(c) APPEAL OF DESIGNATION.—A community may appeal its designation under this section. The Secretary may withdraw the designation of a community under this section based on—

''(1) the airport sponsor's ability to pay; or

''(2) the relative lack of financial resources in a community, based on a comparison of the median income of the community with other communities in the State.

''(d) NON-FEDERAL SHARE.—

''(1) NON-FEDERAL AMOUNTS.—For purposes of this section, the non-Federal portion of the essential air service subsidy may be derived from contributions in kind, or through reduction in the amount of the essential air service subsidy through reduction of air carrier costs, increased ridership, prepurchase of tickets, or other means. The Secretary shall provide assistance to designated communities in identifying potential means of reducing the amount of the subsidy without adversely affecting air transportation service to the community.

''(2) APPLICATION WITH OTHER MATCHING REQUIREMENTS.—This section shall apply to the Federal share of essential air service provided this subchapter, after the application of any other non-Federal share matching requirements imposed by law.

''(e) ELIGIBILITY FOR OTHER PROGRAMS NOT AFFECTED.—Nothing in this section affects the eligibility of a community or consortium of communities, an airport sponsor, or any other person to participate in any program authorized by this subchapter. A community designated under this section may participate in any program (including pilot programs) authorized by this subchapter for which it is otherwise eligible—

''(1) without regard to any limitation on the number of communities that may participate in that program; and

''(2) without reducing the number of other communities that may participate in that program.

''(f) SECRETARY TO REPORT TO CONGRESS ON IMPACT.—The Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

''(1) the economic condition of communities designated under this section before their designation;

''(2) the impact of designation under this section on such communities at the end of each of the 3 years following their designation; and

''(3) the impact of designation on air traffic patterns affecting air transportation to and from communities designated under this section.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 is amended by adding at the end the following:

''41745. Community and regional choice programs.
''41746. Tracking service.
''41747. EAS local participation program.''.

SEC. 409. MEASUREMENT OF HIGHWAY MILES FOR PURPOSES OF DETERMINING ELIGIBILITY OF ESSENTIAL AIR SERVICE SUBSIDIES.

(a) REQUEST FOR SECRETARIAL REVIEW.—An eligible place (as defined in section 41731 of title 49, United States Code) with respect to which the Secretary has, in the 2-year period ending on the date of enactment of this Act, eliminated (or tentatively eliminated) compensation for essential air service to such place, or terminated (or tentatively terminated) the compensation eligibility of such place for essential air service, under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect based on the highway mileage of such place from the nearest hub airport (as defined in section 40102 of such title), may request the Secretary to review such action.

(b) DETERMINATION OF MILEAGE.—In reviewing an action under subsection (a), the highway mileage between an eligible place and the nearest medium hub airport or large hub airport is the highway mileage of the most commonly used route between the place and the medium hub airport or large hub airport. In identifying such route, the Secretary shall identify the most commonly used route for a community by—

(1) consulting with the Governor of a State or the Governor's designee; and

(2) considering the certification of the Governor of a State or the Governor's designee as to the most commonly used route.

(c) ELIGIBILITY DETERMINATION.—Not later than 60 days after receiving a request under subsection (a), the Secretary shall—

(1) determine whether the eligible place would have been subject to an elimination of compensation eligibility for essential air service, or termination of the eligibility of such place for essential air service, under the provisions of law referred to in subsection (a) based on the determination of the highway mileage of such place from the nearest medium hub airport or large hub airport under subsection (b); and

(2) issue a final order with respect to the eligibility of such place for essential air service compensation under subchapter II of chapter 417 of title 49, United States Code.

(d) LIMITATION ON PERIOD OF FINAL ORDER.—A final order issued under subsection (c) shall terminate on September 30, 2007.

SEC. 410. INCENTIVE PROGRAM.

(a) PURPOSES.—The purposes of this section are—

(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.

(b) MARKETING PROGRAM.—Subchapter II of chapter 417 is further amended by adding at the end the following:

''§ 41748. Marketing program

''(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive program for eligible places that receive subsidized service by an air carrier under section 41733. Under the program, the sponsor of the airport serving such an eligible place may receive a grant of not more than $50,000 in a fiscal year to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

''(b) MATCHING REQUIREMENT; SUCCESS BONUSES—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with a marketing plan to be developed and implemented under this section shall come from non-Federal sources. For purposes of this section—

''(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

''(B) matching contributions from a State or unit of local government may not be derived, directly or indirectly, from Federal funds, but the use by the State or unit of local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

''(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.

''(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect under this section with respect to an eligible place, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport serving the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources under this subsection for the following 12-month period.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 is further amended by adding at the end the following:

''41748. Marketing program.''.

SEC. 411. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission on Small Community Air Service'' (in this section referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of nine members of whom—

(A) three members shall be appointed by the Secretary;

(B) two members shall be appointed by the majority leader of the Senate;

(C) one member shall be appointed by the minority leader of the Senate;

(D) two members shall be appointed by the Speaker of the House of Representatives; and

(E) one member shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Of the members appointed by the Secretary under paragraph (1)(A)—

(A) one member shall be a representative of a regional airline;

(B) one member shall be a representative of a small hub airport or nonhub airport (as such terms are defined in section 40102 of title 49, United States Code); and

(C) one member shall be a representative of a State aviation agency.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as chairperson of the Commission.

(d) DUTIES.—

(1) STUDY.—The Commission shall undertake a study of—

(A) the challenges faced by small communities in the United States with respect to retaining and enhancing their scheduled commercial air service; and

(B) whether the existing Federal programs charged with helping small communities are

adequate for them to retain and enhance their existing air service.

(2) ESSENTIAL AIR SERVICE COMMUNITIES.—In conducting the study, the Commission shall pay particular attention to the state of scheduled commercial air service in communities currently served by the essential air service program.

(e) RECOMMENDATIONS.—Based on the results of the study under subsection (d), the Commission shall make such recommendations as it considers necessary to—

(1) improve the state of scheduled commercial air service at small communities in the United States, especially communities described in subsection (d)(2); and

(2) improve the ability of small communities to retain and enhance their existing air service.

(f) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (e).

(g) COMMISSION PANELS.—The chairperson of the Commission shall establish such panels consisting of members of the Commission as the chairperson determines appropriate to carry out the functions of the Commission.

(h) COMMISSION PERSONNEL MATTERS.—

(1) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) OTHER STAFF AND SUPPORT.—Upon the request of the Commission, or a panel of the Commission, the Secretary shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the chairperson of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) TERMINATION.—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (f).

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $250,000 to be used to fund the Commission.

SEC. 412. SMALL COMMUNITY AIR SERVICE.

Section 41743 is amended—

(1) in the heading of subsection (a) by striking ''PILOT'';

(2) in subsection (a) by striking ''pilot'';

(3) in subsection (c)—

(A) by striking paragraph (3) and inserting the following:

''(3) STATE LIMIT.—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.'';

(B) by adding at the end of paragraph (4) the following: ''No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.''; and

(C) in paragraph (5)—

(i) by striking ''and'' at the end of subparagraph (C);

(ii) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(iii) by adding at the end the following:

''(E) the assistance will be used in a timely fashion.'';

(4) in subsection (e)(2)—

(A) by striking ''and'' the first place it appears and inserting a comma; and

(B) by inserting after ''2003'' the following '', and $35,000,000 for each of fiscal years 2004 through 2008''; and

(5) in subsection (f) by striking ''pilot''.

Subtitle B—Miscellaneous

SEC. 421. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.

Section 329 is amended by adding at the end the following:

''(e) INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING.—

''(1) PUBLICATION OF DATA.—The Secretary of Transportation shall publish data on incidents and complaints involving passenger and baggage security screening in a manner comparable to other consumer complaint and incident data.

''(2) MONTHLY REPORTS FROM SECRETARY OF HOMELAND SECURITY.—To assist in the publication of data under paragraph (1), the Secretary of Transportation may request the Secretary of Homeland Security to periodically report on the number of complaints about security screening received by the Secretary of Homeland Security.''.

SEC. 422. DELAY REDUCTION ACTIONS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

''§ 41722. Delay reduction actions

''(a) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

''(1) the Administrator determines that it is necessary to convene such a meeting; and

''(2) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

''(b) MEETING CONDITIONS.—Any meeting under subsection (a)—

''(1) shall be chaired by the Administrator;

''(2) shall be open to all scheduled air carriers; and

''(3) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

''(c) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

''(d) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any offer to meet a flight reduction target to the Administrator rather than to another carrier.

''(e) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by striking the item relating to section 41721 and inserting the following:

''41721. Reports by carriers on incidents involving animals during air transport.
''41722. Delay reduction actions.''.

SEC. 423. COLLABORATIVE DECISIONMAKING PILOT PROGRAM.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

''§ 40129. Collaborative decisionmaking pilot program

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Administrator of the Federal Aviation Administration shall establish a collaborative decisionmaking pilot program in accordance with this section.

''(b) DURATION.—Except as provided in subsection (k), the pilot program shall be in effect for a period of 2 years.

''(c) GUIDELINES.—

''(1) ISSUANCE.—The Administrator, with the concurrence of the Attorney General, shall issue guidelines concerning the pilot program. Such guidelines, at a minimum, shall—

''(A) define a capacity reduction event;

''(B) establish the criteria and process for determining when a capacity reduction event exists that warrants the use of collaborative decisionmaking among carriers at airports participating in the pilot program; and

''(C) prescribe the methods of communication to be implemented among carriers during such an event.

''(2) VIEWS.—The Administrator may obtain the views of interested parties in issuing the guidelines.

''(d) EFFECT OF DETERMINATION OF EXISTENCE OF CAPACITY REDUCTION EVENT.—Upon a determination by the Administrator that a capacity reduction event exists, the Administrator may authorize air carriers and foreign air carriers operating at an airport participating in the pilot program to communicate for a period of time not to exceed 24 hours with each other concerning changes in their respective flight schedules in order to use air traffic capacity most effectively. The Administration shall facilitate and monitor such communication. The Attorney General, or the Attorney General's designee, may monitor such communication.

''(e) SELECTION OF PARTICIPATING AIRPORTS.—Not later than 30 days after the date on which the Administrator establishes the pilot program, the Administrator shall select 2 airports to participate in the pilot program from among the most capacity-constrained airports in the Nation based on the Administration's Airport Capacity Benchmark Report 2001 or more recent data on airport capacity that is available to the Administrator. The Administrator shall select an airport for participation in the pilot program if the Administrator determines that collaborative decisionmaking among air carriers and foreign air carriers would reduce delays at the airport and have beneficial effects on reducing delays in the national airspace system as a whole.

''(f) ELIGIBILITY OF AIR CARRIERS.—An air carrier or foreign air carrier operating at an airport selected to participate in the pilot program is eligible to participate in the pilot program if the Administrator determines that the carrier has the operational and communications capability to participate in the pilot program.

''(g) MODIFICATION OR TERMINATION OF PILOT PROGRAM AT AN AIRPORT.—The Administrator, with the concurrence of the Attorney General, may modify or end the pilot program at an airport before the term of the pilot program has expired, or may ban an air carrier or foreign air carrier from participating in the program, if the Administrator determines that the purpose of the pilot program is not being furthered by participation of the airport or air carrier or if the Secretary of Transportation, with the concurrence of the Attorney General, finds that the pilot program or the participation of an air carrier or foreign air carrier in the pilot program has had, or is having, an adverse effect on competition among carriers.

''(h) ANTITRUST IMMUNITY.—

''(1) IN GENERAL.—Unless, within 5 days after receiving notice from the Secretary of the Secretary's intention to exercise authority under this subsection, the Attorney General submits to the Secretary a written objection to such action, including reasons for such objection, the Secretary may exempt an air carrier's or foreign air carrier's activities that are necessary to participate in the pilot program under this section from the antitrust laws for the sole purpose of participating in the pilot program. Such exemption shall not extend to any discussions, agreements, or activities outside the scope of the pilot program.

''(2) ANTITRUST LAWS DEFINED.—In this section, the term 'antitrust laws' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

''(i) CONSULTATION WITH ATTORNEY GENERAL.—The Secretary shall consult with the Attorney General regarding the design and implementation of the pilot program, including determining whether a limit should be set on the number of occasions collaborative decisionmaking could be employed during the initial 2-year period of the pilot program.

''(j) EVALUATION.—

''(1) IN GENERAL.—Before the expiration of the 2-year period for which the pilot program is authorized under subsection (b), the Administrator shall determine whether the pilot program has facilitated more effective use of air traffic capacity and the Secretary, with the concurrence of the Attorney General, shall determine whether the pilot program has had an adverse effect on airline competition or the availability of air services to communities. The Administrator shall also examine whether capacity benefits resulting from the participation in the pilot program of an airport resulted in capacity benefits to other parts of the national airspace system.

''(2) OBTAINING NECESSARY DATA.—The Administrator may require participating air carriers and airports to provide data necessary to evaluate the pilot program's impact.

''(k) EXTENSION OF PILOT PROGRAM.—At the end of the 2-year period for which the pilot program is authorized, the Administrator, with the concurrence of the Attorney General, may continue the pilot program for an additional 2 years and expand participation in the program to up to 7 additional airports if the Administrator determines pursuant to subsection (j) that the pilot program has facilitated more effective use of air traffic capacity and if the Secretary, with the concurrence of the Attorney General, determines that the pilot program has had no adverse effect on airline competition or the availability of air services to communities. The Administrator shall select the additional airports to participate in the extended pilot program in the same manner in which airports were initially selected to participate.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 401 is amended by adding at the end the following:

''40129. Collaborative decisionmaking pilot program.''.

SEC. 424. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.

Section 47107 is amended by adding at the end the following:

''(s) COMPETITION DISCLOSURE REQUIREMENT.—

''(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a large hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

''(2) COMPETITIVE ACCESS.—On February 1 and August 1 of each year, an airport that during the previous 6-month period has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport shall transmit a report to the Secretary that—

''(A) describes the requests;

''(B) provides an explanation as to why the requests could not be accommodated; and

''(C) provides a time frame within which, if any, the airport will be able to accommodate the requests.

''(3) SUNSET PROVISION.—This subsection shall cease to be effective beginning October 1, 2008.''.

SEC. 425. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) BEYOND-PERIMETER EXEMPTIONS.—Section 41718(a) is amended by striking ''12'' and inserting ''24''.

(b) WITHIN-PERIMETER EXEMPTIONS.—Section 41718(b) is amended—

(1) by striking ''12'' and inserting ''20''; and

(2) by striking ''that were designated as medium hub or smaller airports''.

(c) LIMITATIONS.—

(1) GENERAL EXEMPTIONS.—Section 41718(c)(2) is amended by striking ''two'' and inserting ''3''.

(2) ALLOCATION OF WITHIN-PERIMETER EXEMPTIONS.—Section 41718(c)(3) is amended—

(A) in subparagraph (A)—

(i) by striking ''four'' and inserting ''without regard to the criteria contained in subsection (b)(1), six''; and

(ii) by striking ''and'' at the end;

(B) in subparagraph (B)—

(i) by striking ''eight'' and inserting ''ten''; and

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

(C) by adding at the end the following:

''(C) four shall be for air transportation to airports without regard to their size.''.

(d) APPLICATION PROCEDURES.—Section 41718(d) is amended to read as follows:

''(d) APPLICATION PROCEDURES.—The Secretary shall establish procedures to ensure that all requests for exemptions under this section are granted or denied within 90 days after the date on which the request is made.''.

SEC. 426. DEFINITION OF COMMUTER AIRCRAFT.

(a) IN GENERAL.—Section 41718 is amended by adding at the end the following:

''(f) COMMUTERS DEFINED.—For purposes of aircraft operations at Ronald Reagan Washington National Airport under subpart K of part 93 of title 14, Code of Federal Regulations, the term 'commuters' means aircraft operations using aircraft having a certificated maximum seating capacity of 76 or less.''.

(b) REGULATIONS.—The Administrator of the Federal Aviation Administration shall revise regulations to take into account the amendment made by subsection (a).

SEC. 427. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—Congress finds that—

(1) the Armed Forces is comprised of approximately 1,400,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, and penalties.

SEC. 428. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking ''more than'' and all that follows through ''after'' and inserting ''more than 36 months after''.

TITLE V—AVIATION SAFETY

SEC. 501. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following:

''(B) whose certificate is revoked under subsection (b); or''; and

(4) in subparagraph (C) (as redesignated by paragraph (2) of this section) by striking ''convicted of such a violation.'' and inserting ''described in subparagraph (A) or (B).''.

SEC. 502. RUNWAY SAFETY STANDARDS.

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

''§ 44727. Runway safety areas

''(a) AIRPORTS IN ALASKA.—An airport owner or operator in the State of Alaska shall not be required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet standards of the Federal Aviation Administration applicable to runway safety areas.

''(b) STUDY.—

''(1) IN GENERAL.—The Secretary shall conduct a study of runways at airports in States other than Alaska to determine which airports are affected by standards of the Federal Aviation Administration applicable to runway safety areas and to assess how operations at those airports would be affected if the owner or operator of the airport is required to reduce the length of a runway or declare the length of a runway to be less than the actual pavement length in order to meet such standards.

''(2) REPORT.—Not later than 9 months after the date of enactment of this section, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of the study.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is amended by adding at the end the following:

''44727. Runway safety areas.''.

SEC. 503. CIVIL PENALTIES.

(a) INCREASE IN MAXIMUM CIVIL PENALTY.—Section 46301(a) is amended—

(1) by striking ''$1,000'' in paragraph (1) and inserting ''$25,000 (or $1,100 if the person is an individual or small business concern)'';

(2) by striking ''or'' the last place it appears in paragraph (1)(A);

(3) by striking ''section)'' in paragraph (1)(A) and inserting ''section), or section 47133'';

(4) by striking paragraphs (2), (3), (6), and (7) and redesignating paragraphs (4), (5), and (8) as paragraphs (2), (3), and (4), respectively;

(5) by striking ''41715'' each place it appears in paragraph (2), as redesignated, and inserting ''41719'';

(6) by striking ''paragraphs (1) and (2)'' in paragraph (4), as redesignated, and inserting ''paragraph (1)''; and

(7) by adding at the end the following:

''(5) PENALTIES APPLICABLE TO INDIVIDUALS AND SMALL BUSINESS CONCERNS.—

''(A) An individual (except an airman serving as an airman) or small business concern is liable to the Government for a civil penalty of not more than $10,000 for violating—

''(i) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), section 44502 (b) or (c), chapter 447 (except sections 44717–44723), or chapter 449 (except sections 44902, 44903(d), 44904, and 44907–44909) of this title; or

''(ii) a regulation prescribed or order issued under any provision to which clause (i) applies.

''(B) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) committed by an individual or small business concern related to—

''(i) the transportation of hazardous material;

''(ii) the registration or recordation under chapter 441 of an aircraft not used to provide air transportation;

''(iii) a violation of section 44718(d), relating to the limitation on construction or establishment of landfills;

''(iv) a violation of section 44725, relating to the safe disposal of life-limited aircraft parts; or

''(v) a violation of section 40127 or section 41705, relating to discrimination.

''(C) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41719 committed by an individual or small business concern shall be $5,000 instead of $1,000.

''(D) Notwithstanding paragraph (1), the maximum civil penalty for a violation of section 41712 (including a regulation prescribed or order issued under such section) or any other regulation prescribed by the Secretary by an individual or small business concern that is intended to afford consumer protection to commercial air transportation passengers shall be $2,500 for each violation.''.

(b) INCREASE IN LIMIT ON ADMINISTRATIVE AUTHORITY AND CIVIL PENALTY.—Section 46301(d) is amended—

(1) by striking ''more than $50,000;'' in paragraph (4)(A) and inserting ''more than—

''(i) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

''(ii) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

''(iii) $50,000 if the violation was committed by an individual or small business concern on or after that date;''; and

(2) by striking ''is $50,000.'' in paragraph (8) and inserting ''is—

''(A) $50,000 if the violation was committed by any person before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act;

''(B) $400,000 if the violation was committed by a person other than an individual or small business concern on or after that date; or

''(C) $50,000 if the violation was committed by an individual or small business concern on or after that date.''.

(c) SMALL BUSINESS CONCERN DEFINED.—Section 46301 is amended by adding at the end the following:

''(i) SMALL BUSINESS CONCERN DEFINED.—In this section, the term 'small business concern' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).''.

(d) CONFORMING AMENDMENTS.—Title 49 is amended—

(1) in section 41705(b) by striking ''46301(a)(3)(E)'' and inserting ''46301''; and

(2) in section 46304(a) by striking '', (2), or (3)''.

SEC. 504. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall ensure that the training standards for airframe and powerplant mechanics under part 65 of title 14, Code of Federal Regulations, are updated and revised in accordance with this section. The Administrator may update and revise the training standards through the initiation of a formal rulemaking or by issuing an advisory circular or other agency guidance.

(b) ELEMENTS FOR CONSIDERATION.—The updated and revised standards required under subsection (a) shall include those curriculum adjustments that are necessary to more accurately reflect current technology and maintenance practices.

(c) CERTIFICATION.—Any adjustment or modification of current curriculum standards made pursuant to this section shall be reflected in the certification examinations of airframe and powerplant mechanics.

(d) COMPLETION.—The revised and updated training standards required by subsection (a) shall be completed not later than 12 months after the date of enactment of this Act.

(e) PERIODIC REVIEWS AND UPDATES.—The Administrator shall review the content of the curriculum standards for training airframe and powerplant mechanics referred to in subsection (a) every 3 years after completion of the revised and updated training standards required under subsection (a) as necessary to reflect current technology and maintenance practices.

SEC. 505. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.

(a) ASSESSMENT.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration's proposed wake turbulence research and development program. The assessment shall include—

(1) an evaluation of the research and development goals and objectives of the program;

(2) a listing of any additional research and development objectives that should be included in the program;

(3) any modifications that will be necessary for the program to achieve the program's goals and objectives on schedule and within the proposed level of resources; and

(4) an evaluation of the roles, if any, that should be played by other Federal agencies, such as the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, in wake turbulence research and development, and how those efforts could be coordinated.

(b) REPORT.—A report containing the results of the assessment shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator of the Federal Aviation Administration $500,000 for fiscal year 2004 to carry out this section.

SEC. 506. FAA INSPECTOR TRAINING.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the training of the aviation safety inspectors of the Federal Aviation Administration (in this section referred to as ''FAA inspectors'').

(2) CONTENTS.—The study shall include—

(A) an analysis of the type of training provided to FAA inspectors;

(B) actions that the Federal Aviation Administration has undertaken to ensure that FAA inspectors receive up-to-date training on the latest technologies;

(C) the extent of FAA inspector training provided by the aviation industry and whether such training is provided without charge or on a quid pro quo basis; and

(D) the amount of travel that is required of FAA inspectors in receiving training.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that—

(1) FAA inspectors should be encouraged to take the most up-to-date initial and recurrent training on the latest aviation technologies;

(2) FAA inspector training should have a direct relation to an individual's job requirements; and

(3) if possible, a FAA inspector should be allowed to take training at the location most convenient for the inspector.

(c) WORKLOAD OF INSPECTORS.—

(1) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall make appropriate arrangements for the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing standards for FAA inspectors to ensure proper oversight over the aviation industry, including the designee program.

(2) CONTENTS.—The study shall include the following:

(A) A suggested method of modifying FAA inspectors staffing models for application to current local conditions or applying some other approach to developing an objective staffing standard.

(B) The approximate cost and length of time for developing such models.

(3) REPORT.—Not later than 12 months after the initiation of the arrangements under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study.

SEC. 507. AIR TRANSPORTATION OVERSIGHT SYSTEM PLAN.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule for addressing problems with the air transportation oversight system that have been identified in reports by the Comptroller General and the Inspector General of the Department of Transportation.

(b) PLAN REQUIREMENTS.—The plan transmitted by the Administrator under subsection (a) shall set forth the action the Administration will take under the plan—

(1) to develop specific, clear, and meaningful inspection guidance for the use by Administration aviation safety inspectors and analysts;

(2) to provide adequate training to Administration aviation safety inspectors in system safety concepts, risk analysis, and auditing;

(3) to ensure that aviation safety inspectors with the necessary qualifications and experience are physically located where they can satisfy the most important needs;

(4) to establish strong national leadership for the air transportation oversight system and to ensure that the system is implemented consistently across Administration field offices; and

(5) to extend the air transportation oversight system beyond the 10 largest air carriers, so it governs oversight of smaller air carriers as well.

TITLE VI—AVIATION SECURITY

SEC. 601. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.

(a) IN GENERAL.—Chapter 461 is amended by adding at the end the following:

''§ 46111. Certificate actions in response to a security threat

''(a) ORDERS.—The Administrator of Federal Aviation Administration shall issue an order amending, modifying, suspending, or revoking any part of a certificate issued under this title if the Administrator is notified by the Under Secretary for Border and Transportation Security of the Department of Homeland Security that the holder of the certificate poses, or is suspected of posing, a risk of air piracy or terrorism or a threat to airline or passenger safety. If requested by the Under Secretary, the order shall be effective immediately.

''(b) HEARINGS FOR CITIZENS.—An individual who is a citizen of the United States who is adversely affected by an order of the Administrator under subsection (a) is entitled to a hearing on the record.

''(c) HEARINGS.—When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Administrator or the Under Secretary.

''(d) APPEALS.—An appeal from a decision of an administrative law judge as the result of a hearing under subsection (b) shall be made to the Transportation Security Oversight Board established by section 115. The Board shall establish a panel to review the decision. The members of this panel (1) shall not be employees of the Transportation Security Administration, (2) shall have the level of security clearance needed to review the determination made under this section, and (3) shall be given access to all relevant documents that support that determination. The panel may affirm, modify, or reverse the decision.

''(e) REVIEW.—A person substantially affected by an action of a panel under subsection (d), or the Under Secretary when the Under Secretary decides that the action of the panel under this section will have a significant adverse impact on carrying out this part, may obtain review of the order under section 46110. The Under Secretary and the Administrator shall be made a party to the review proceedings. Findings of fact of the panel are conclusive if supported by substantial evidence.

''(f) EXPLANATION OF DECISIONS.—An individual who commences an appeal under this section shall receive a written explanation of the basis for the determination or decision and all relevant documents that support that determination to the maximum extent that the national security interests of the United States and other applicable laws permit.

''(g) CLASSIFIED EVIDENCE.—

''(1) IN GENERAL.—The Under Secretary, in consultation with the Administrator and the Director of Central Intelligence, shall issue regulations to establish procedures by which the Under Secretary, as part of a hearing conducted under this section, may provide an unclassified summary of classified evidence upon which the order of the Administrator was based to the individual adversely affected by the order.

''(2) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

''(A) REVIEW.—As part of a hearing conducted under this section, if the order of the Administrator issued under subsection (a) is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.), such information may be submitted by the Under Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

''(B) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Under Secretary shall, in coordination, as necessary, with the heads of other affected departments or agencies, ensure that administrative law judges reviewing orders of the Administrator under this section possess security clearances appropriate for their work under this section.

''(3) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a hearing conducted under this section and upon the request of the individual adversely affected by an order of the Administrator under subsection (a), the Under Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under paragraph (1), an unclassified summary of any classified information upon which the order of the Administrator is based.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 461 is amended by adding at the end the following:

''46111. Certificate actions in response to a security threat.''.

SEC. 602. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred as an ''ADIZ''), the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, not later than 60 days after the date of establishing the ADIZ, a report containing an explanation of the need for the ADIZ. The Administrator also shall transmit to the Committees updates of the report every 60 days until the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) not later than 30 days after such date of enactment.

(c) DESCRIPTION OF CHANGES TO IMPROVE OPERATIONS.—A report transmitted by the Administrator under this section shall include a description of any changes in procedures or requirements that could improve operational efficiency or minimize operational impacts of the ADIZ on pilots and controllers. This portion of the report may be transmitted in classified or unclassified form.

(d) DEFINITION.—In this section, the terms ''Air Defense Identification Zone'' and ''ADIZ'' each mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15- to 38-mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

SEC. 603. CREW TRAINING.

Section 44918 is amended to read as follows:

''§ 44918. Crew training

''(a) BASIC SECURITY TRAINING.—

''(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions.

''(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

''(A) Recognizing suspicious activities and determining the seriousness of any occurrence.

''(B) Crew communication and coordination.

''(C) The proper commands to give passengers and attackers.

''(D) Appropriate responses to defend oneself.

''(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Under Secretary for Border and Transportation Security of the Department of Homeland Security).

''(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

''(G) Situational training exercises regarding various threat conditions.

''(H) Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers.

''(I) The proper conduct of a cabin search, including explosive device recognition.

''(J) Any other subject matter considered appropriate by the Under Secretary.

''(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Under Secretary.

''(4) MINIMUM STANDARDS.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary may establish minimum standards for the training provided under this subsection and for recurrent training.

''(5) EXISTING PROGRAMS.—Notwithstanding paragraphs (3) and (4), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that was approved by the Administrator or the Under Secretary before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act may continue in effect until disapproved or ordered modified by the Under Secretary.

''(6) MONITORING.—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier's training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier's training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge.

''(7) UPDATES.—The Under Secretary, in consultation with the Administrator, shall order air carriers to modify training programs under this subsection to reflect new or different security threats.

''(b) ADVANCED SELF-DEFENSE TRAINING.—

''(1) IN GENERAL.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.

''(2) PROGRAM ELEMENTS.—The training program under this subsection shall include both classroom and effective hands-on training in the following elements of self-defense:

''(A) Deterring a passenger who might present a threat.

''(B) Advanced control, striking, and restraint techniques.

''(C) Training to defend oneself against edged or contact weapons.

''(D) Methods to subdue and restrain an attacker.

''(E) Use of available items aboard the aircraft for self-defense.

''(F) Appropriate and effective responses to defend oneself, including the use of force against an attacker.

''(G) Any other element of training that the Under Secretary considers appropriate.

''(3) PARTICIPATION NOT REQUIRED.—A crew member shall not be required to participate in the training program under this subsection.

''(4) COMPENSATION.—Neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.

''(5) FEES.—A crew member shall not be required to pay a fee for the training program under this subsection.

''(6) CONSULTATION.—In developing the training program under this subsection, the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of

self-defense training in the Federal Air Marshals Service, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

''(7) DESIGNATION OF TSA OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

''(c) LIMITATION.—Actions by crew members under this section shall be subject to the provisions of section 44903(k).''.

SEC. 604. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with representatives of the aviation community, shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

(b) REPORT.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any redeployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form. The Secretary shall submit the report in lieu of the annual report required under section 44938(a) of title 49, United States Code, that is due March 31, 2004.

SEC. 605. AIRPORT SECURITY IMPROVEMENT PROJECTS.

(a) IN GENERAL.—Subchapter I of chapter 449 is amended by adding at the end the following:

''§ 44923. Airport security improvement projects

''(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Under Secretary for Border and Transportation Security of the Department of Homeland Security may make grants to airport sponsors—

''(1) for projects to replace baggage conveyer systems related to aviation security;

''(2) for projects to reconfigure terminal baggage areas as needed to install explosive detection systems;

''(3) for projects to enable the Under Secretary to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or in line with the baggage handling system; and

''(4) for other airport security capital improvement projects.

''(b) APPLICATIONS.—A sponsor seeking a grant under this section shall submit to the Under Secretary an application in such form and containing such information as the Under Secretary prescribes.

''(c) APPROVAL.—The Under Secretary, after consultation with the Secretary of Transportation, may approve an application of a sponsor for a grant under this section only if the Under Secretary determines that the project will improve security at an airport or improve the efficiency of the airport without lessening security.

''(d) LETTERS OF INTENT.—

''(1) ISSUANCE.—The Under Secretary may issue a letter of intent to a sponsor committing to obligate from future budget authority an amount, not more than the Federal Government's share of the project's cost, for an airport security improvement project (including interest costs and costs of formulating the project).

''(2) SCHEDULE.—A letter of intent under this subsection shall establish a schedule under which the Under Secretary will reimburse the sponsor for the Government's share of the project's costs, as amounts become available, if the sponsor, after the Under Secretary issues the letter, carries out the project without receiving amounts under this section.

''(3) NOTICE TO UNDER SECRETARY.—A sponsor that has been issued a letter of intent under this subsection shall notify the Under Secretary of the sponsor's intent to carry out a project before the project begins.

''(4) NOTICE TO CONGRESS.—The Under Secretary shall transmit to the Committees on Appropriations and Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Commerce, Science and Transportation of the Senate a written notification at least 3 days before the issuance of a letter of intent under this section.

''(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

''(6) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

''(e) FEDERAL SHARE.—

''(1) IN GENERAL.—The Government's share of the cost of a project under this section shall be 90 percent for a project at a medium or large hub airport and 95 percent for a project at any other airport.

''(2) EXISTING LETTERS OF INTENT.—The Under Secretary shall revise letters of intent issued before the date of enactment of this section to reflect the cost share established in this subsection with respect to grants made after September 30, 2003.

''(f) SPONSOR DEFINED.—In this section, the term 'sponsor' has the meaning given that term in section 47102.

''(g) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements that apply to grants and letters of intent issued under chapter 471 (other than section 47102(3)) shall apply to grants and letters of intent issued under this section.

''(h) AVIATION SECURITY CAPITAL FUND.—

''(1) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. The first $250,000,000 derived from fees received under section 44940(a)(1) in each of fiscal years 2004 through 2007 shall be available to be deposited in the Fund. The Under Secretary shall impose the fee authorized by section 44940(a)(1) so as to collect at least $250,000,000 in each of such fiscal years for deposit into the Fund. Amounts in the Fund shall be available to the Under Secretary to make grants under this section.

''(2) ALLOCATIONS.—Of the amount made available under paragraph (1) for a fiscal year, $125,000,000 shall be allocated in such a manner that—

''(A) 40 percent shall be made available for large hub airports;

''(B) 20 percent shall be made available for medium hub airports;

''(C) 15 percent shall be made available for small hub airports and nonhub airports; and

''(D) 25 percent shall be distributed by the Secretary to any airport on the basis of aviation security risks.

''(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, $125,000,000 shall be used to make discretionary grants, with priority given to fulfilling intentions to obligate under letters of intent issued under subsection (d).

''(i) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—In addition to amounts made available under subsection (h), there is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2004 through 2007. Such sums shall remain available until expended.

''(2) ALLOCATIONS.—50 percent of amounts appropriated pursuant to this subsection for a fiscal year shall be used for making allocations under subsection (h)(2) and 50 percent of such amounts shall be used for making discretionary grants under subsection (h)(3).''.

(b) CONFORMING AMENDMENTS.—

(1) USE OF PASSENGER FEE FUNDS.—Section 44940(a)(1) is amended by inserting after subparagraph (G) the following:

''(H) The costs of security-related capital improvements at airports.

''(I) The costs of training pilots and flight attendants under sections 44918 and 44921.''.

(2) LIMITATION ON COLLECTION.—Section 44940(d)(4) is amended by striking ''Act.'' and inserting ''Act or in section 44923.''.

(3) CHAPTER ANALYSIS.—The analysis for subchapter I of chapter 449 is amended by adding at the end the following:

''44923. Airport security improvement projects.''.

SEC. 606. CHARTER SECURITY.

(a) IN GENERAL.—Section 44903 is amended by adding at the end the following:

''(l) AIR CHARTER PROGRAM.—

''(1) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall implement an aviation security program for charter air carriers (as defined in section 40102(a)) with a maximum certificated takeoff weight of more than 12,500 pounds.

''(2) EXEMPTION FOR ARMED FORCES CHARTERS.—

''(A) IN GENERAL.—Paragraph (1) and the other requirements of this chapter do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

''(B) SECURITY PROCEDURES.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c).

''(C) ARMED FORCES DEFINED.—In this paragraph, the term 'armed forces' has the meaning given that term by section 101(a)(4) of title 10.''.

(b) REPEAL.—Section 132 of the Aviation and Transportation Security Act (49 U.S.C. 44944 note) is repealed.

SEC. 607. CAPPS2.

(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall not implement, on other than a test basis, the computer assisted passenger prescreening system (commonly known as and in this section referred to as ''CAPPS2'') until the Under Secretary provides to Congress a certification that—

(1) a procedure is established enabling airline passengers, who are delayed or prohibited from boarding a flight because CAPPS2 determined that they might pose a security threat, to appeal such determination and correct information contained in CAPPS2;

(2) the error rate of the Government and private data bases that will be used to both establish identity and assign a risk level to a passenger under CAPPS2 will not produce a large number of false positives that will result in a significant number of passengers being mistaken as a security threat;

(3) the Under Secretary has 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 security threat;

(4) the Secretary of Homeland Security has established an internal oversight board to oversee and monitor the manner in which CAPPS2 is being implemented;

(5) the Under Secretary 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 Under Secretary 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) GAO REPORT.—Not later than 90 days after the date on which certification is provided under subsection (a), the Comptroller General shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate that assesses the impact of CAPPS2 on the issues listed in subsection (a) and on privacy and civil liberties. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effect of CAPPS2 on privacy, discrimination, and other civil liberties.

SEC. 608. REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening system, commonly known as CAPPS2, on the privacy and civil liberties of United States citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, nongovernmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated, and updated.

SEC. 609. ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm or taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(b) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 is amended—

(1) in subsection (a) by striking ''passenger'' each place that it appears;

(2) in subsection (k)(2) by striking ''or,'' and all that follows before the period at the end and inserting ''or any other flight deck crew member''; and

(3) by adding at the end of subsection (k) the following:

''(3) ALL-CARGO AIR TRANSPORTATION.—In this section, the term 'air transportation' includes all-cargo air transportation.''.

(c) TIME FOR IMPLEMENTATION.—In carrying out the amendments made by subsection (d), the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall ensure that passenger and cargo pilots are treated equitably in receiving access to training as Federal flight deck officers.

(d) EFFECT ON OTHER LAWS.—The requirements of subsection (e) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

SEC. 610. REMOVAL OF CAP ON TSA STAFFING LEVEL.

The matter appearing under the heading ''AVIATION SECURITY'' in the appropriations for the Transportation Security Administration in the Transportation and Related Agencies Appropriation Act, 2003 (Public Law 108–7; 117 Stat. 386) is amended by striking the fifth proviso.

SEC. 611. FOREIGN REPAIR STATIONS.

(a) OVERSIGHT PLAN.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule to strengthen oversight of domestic and foreign repair stations and ensure that foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, are subject to an equivalent level of safety, oversight, and quality control as those located in the United States.

(b) REPAIR STATION SECURITY.—

(1) IN GENERAL.—Subchapter I of chapter 449 is further amended by adding at the end the following:

''§ 44924. Repair station security

''(a) SECURITY REVIEW AND AUDIT.—To ensure the security of maintenance and repair work conducted on air carrier aircraft and components at foreign repair stations, the Under Secretary for Border and Transportation Security of the Department of Homeland Security, in consultation with the Administrator of the Federal Aviation Administration, shall complete a security review and audit of foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and that work on air carrier aircraft and components. The review shall be completed not later than 18 months after the date on which the Under Secretary issues regulations under subsection (f).

''(b) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under subsection (a) within 90 days of providing notice to the repair station of the security issues and vulnerabilities so identified and shall notify the Administrator that a deficiency was identified in the security audit.

''(c) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

''(1) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If, after the 90th day on which a notice is provided to a foreign repair station under subsection (b), the Under Secretary determines that the foreign repair station does not maintain and carry out effective security measures, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and transmits the determination to the Administrator.

''(2) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

''(3) PROCEDURES FOR APPEALS.—The Under Secretary, in consultation with the Administrator, shall establish procedures for appealing a revocation of a certificate under this subsection.

''(d) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by subsection (a) are not completed on or before the date that is 18 months after the date on which the Under Secretary issues regulations under subsection (f), the Administrator shall be barred from certifying any foreign repair station until such audits are completed for existing stations.

''(e) PRIORITY FOR AUDITS.—In conducting the audits described in subsection (a), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the Government as posing the most significant security risks.

''(f) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic aircraft repair stations.

''(g) REPORT TO CONGRESS.—If the Under Secretary does not issue final regulations before the deadline specified in subsection (f), the Under Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation as to why the deadline was not met and a schedule for issuing the final regulations.''.

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 449 is further amended by adding at the end the following:

''44924. Repair station security.''.

SEC. 612. FLIGHT TRAINING.

(a) IN GENERAL.—Section 44939 is amended to read as follows:

''§ 44939. Training to operate certain aircraft

''(a) WAITING PERIOD.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if—

''(1) that person has first notified the Secretary that the alien or individual has requested such training and submitted to the Secretary, in such form as the Secretary may prescribe, the following information about the alien or individual:

''(A) full name, including any aliases used by the applicant or variations in spelling of the applicant's name;

''(B) passport and visa information;

''(C) country of citizenship;

''(D) date of birth;

''(E) dates of training; and

''(F) fingerprints collected by, or under the supervision of, a Federal, State, or local law enforcement agency or by another entity approved by the Federal Bureau of Investigation or the Secretary of Homeland Security, including fingerprints taken by United States Government personnel at a United States embassy or consulate; and

''(2) the Secretary has not directed, within 30 days after being notified under paragraph (1), that person not to provide the requested training because the Secretary has determined that the individual presents a risk to aviation or national security.

''(b) INTERRUPTION OF TRAINING.—If the Secretary of Homeland Security, more than 30 days after receiving notification under subsection (a) from a person providing training described in subsection (a), determines that the individual presents a risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

''(c) NOTIFICATION.—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if that person has notified the Secretary that the individual has requested such training and furnished the Secretary with that individual's identification in such form as the Secretary may require.

''(d) EXPEDITED PROCESSING.—Not later than 60 days after the date of enactment of this section, the Secretary shall establish a process to ensure that the waiting period under subsection (a) shall not exceed 5 days for an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

''(1) holds an airman's certification of a foreign country that is recognized by an agency of the United States, including a military agency, that permits an individual to operate a multiengine aircraft that has a certificated takeoff weight of more than 12,500 pounds;

''(2) is employed by a foreign air carrier that is certified under part 129 of title 14, Code of Federal Regulations, and that has a security program approved under section 1546 of title 49, Code of Federal Regulations;

''(3) is an individual that has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii); or

''(4) is an individual that is part of a class of individuals that the Secretary has determined that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals.

''(e) TRAINING.—In subsection (a), the term 'training' means training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes.

''(f) NONAPPLICABILITY TO CERTAIN FOREIGN MILITARY PILOTS.—The procedures and processes required by subsections (a) through (d) shall not apply to a foreign military pilot endorsed by the Department of Defense for flight training in the United States and seeking training described in subsection (e) in the United States.

''(g) FEE.—

''(1) IN GENERAL.—The Secretary of Homeland Security may assess a fee for an investigation under this section, which may not exceed $100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

''(2) OFFSET.—Notwithstanding section 3302 of title 31, any fee collected under this section—

''(A) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Secretary for those expenses; and

''(B) shall remain available until expended.

''(h) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Secretary in implementing this section.

''(i) SECURITY AWARENESS TRAINING FOR EMPLOYEES.—The Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.''.

(b) PROCEDURES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Secretary or other agency designated by the Secretary. The Attorney General and the Secretary of State shall cooperate with the Secretary of Homeland Security in carrying out this paragraph.

(3) USE OF UNITED STATES FACILITIES.—If the Secretary of Homeland Security requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the effective date of the interim final rule required by subsection (b)(1).

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.

SEC. 613. DEPLOYMENT OF SCREENERS AT KENAI, HOMER, AND VALDEZ, ALASKA.

Not later than 45 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration shall deploy Federal screeners at Kenai, Homer, and Valdez, Alaska.

TITLE VII—AVIATION RESEARCH

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) is amended—

(1) by striking ''to carry out sections 44504'' and inserting ''for conducting civil aviation research and development under sections 44504'';

(2) by striking ''and'' at the end of paragraph (7);

(3) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

''(9) for fiscal year 2004, $346,317,000, including—

''(A) $65,000,000 for Improving Aviation Safety;

''(B) $24,000,000 for Weather Safety Research;

''(C) $27,500,000 for Human Factors and Aeromedical Research;

''(D) $30,000,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,000,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperative Research Program;

''(G) $1,500,000 for carrying out subsection (h) of this section;

''(H) $42,800,000 for Advanced Technology Development and Prototyping;

''(I) $30,300,000 for Safe Flight 21;

''(J) $90,800,000 for the Center for Advanced Aviation System Development;

''(K) $9,667,000 for Airports Technology-Safety; and

''(L) $7,750,000 for Airports Technology-Efficiency;

''(10) for fiscal year 2005, $356,192,000, including—

''(A) $65,705,000 for Improving Aviation Safety;

''(B) $24,260,000 for Weather Safety Research;

''(C) $27,800,000 for Human Factors and Aeromedical Research;

''(D) $30,109,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,076,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperative Research Program;

''(G) $1,650,000 for carrying out subsection (h) of this section;

''(H) $43,300,000 for Advanced Technology Development and Prototyping;

''(I) $31,100,000 for Safe Flight 21;

''(J) $95,400,000 for the Center for Advanced Aviation System Development;

''(K) $2,200,000 for Free Flight Phase 2;

''(L) $9,764,000 for Airports Technology-Safety; and

''(M) $7,828,000 for Airports Technology-Efficiency;

''(11) for fiscal year 2006, $352,157,000, including—

''(A) $66,447,000 for Improving Aviation Safety;

''(B) $24,534,000 for Weather Safety Research;

''(C) $28,114,000 for Human Factors and Aeromedical Research;

''(D) $30,223,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,156,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperation Research Program;

''(G) $1,815,000 for carrying out subsection (h) of this section;

''(H) $42,200,000 for Advanced Technology Development and Prototyping;

''(I) $23,900,000 for Safe Flight 21;

''(J) $100,000,000 for the Center for Advanced Aviation System Development;

''(K) $9,862,000 for Airports Technology-Safety; and

''(L) $7,906,000 for Airports Technology-Efficiency; and

''(12) for fiscal year 2007, $356,261,000, including—

''(A) $67,244,000 for Improving Aviation Safety;

''(B) $24,828,000 for Weather Safety Research;

''(C) $28,451,000 for Human Factors and Aeromedical Research;

''(D) $30,586,000 for Environmental Research and Development, of which $20,000,000 shall be for research activities related to reducing community exposure to civilian aircraft noise or emissions;

''(E) $7,242,000 for Research Mission Support;

''(F) $10,000,000 for the Airport Cooperation Research Program;

''(G) $1,837,000 for carrying out subsection (h) of this section;

''(H) $42,706,000 for Advanced Technology Development and Prototyping;

''(I) $24,187,000 for Safe Flight 21;

''(J) $101,200,000 for the Center for Advanced Aviation System Development;

''(K) $9,980,000 for Airports Technology-Safety; and

''(L) $8,000,000 for Airports Technology-Efficiency.''.

SEC. 702. FEDERAL AVIATION ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a)(1) The Administrator of the Federal Aviation Administration shall establish a Federal Aviation Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Federal Aviation Administration.

(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Federal Aviation Administration, for the period described in subsection (f)(1), in positions needed by the Federal Aviation Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

(2) be a United States citizen or permanent resident; and

(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the Federal Aviation Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) For purposes of this section—

(1) the term ''cost of attendance'' has the meaning given that term in section 472 of the Higher Education Act of 1965;

(2) the term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

(3) the term ''Program'' means the Federal Aviation Administration Science and Technology Scholarship Program established under this section.

(j)(1) There is authorized to be appropriated to the Federal Aviation Administration for the Program $10,000,000 for each fiscal year.

(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

SEC. 703. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a)(1) The Administrator of the National Aeronautics and Space Administration shall establish a National Aeronautics and Space Administration Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the National Aeronautics and Space Administration.

(2) Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act.

(3) To carry out the Program the Administrator shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the National Aeronautics and Space Administration, for the period described in subsection (f)(1), in positions needed by the National Aeronautics and Space Administration and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time student at an institution of higher education, as a junior or senior undergraduate or graduate student, in an academic field or discipline described in the list made available under subsection (d);

(2) be a United States citizen or permanent resident; and

(3) at the time of the initial scholarship award, not be an employee (as defined in section 2105 of title 5, United States Code).

(c) An individual seeking a scholarship under this section shall submit an application to the Administrator at such time, in such manner, and containing such information, agreements, or assurances as the Administrator may require.

(d) The Administrator shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized and shall update the list as necessary.

(e)(1) The Administrator may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Administrator, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) An individual may not receive a scholarship under this section for more than 4 academic years, unless the Administrator grants a waiver.

(3) The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Administrator, but shall in no case exceed the cost of attendance.

(4) A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Administrator by regulation.

(5) The Administrator may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f)(1) The period of service for which an individual shall be obligated to serve as an employee of the National Aeronautics and Space Administration is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2)(A) Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) The Administrator may defer the obligation of an individual to provide a period of service under paragraph (1) if the Administrator determines that such a deferral is appropriate. The Administrator shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g)(1) Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Administrator by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment within 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Administrator when determined to be necessary, as established by regulation.

(2) Scholarship recipients who, for any reason, fail to begin or complete their service obligation after completion of academic training, or fail to comply with the terms and conditions of deferment established by the Administrator pursuant to subsection (f)(2)(B), shall be in breach of their contractual agreement. When recipients breach their agreements for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h)(1) Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) The Administrator shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) For purposes of this section—

(1) the term ''cost of attendance'' has the meaning given that term in section 472 of the Higher Education Act of 1965;

(2) the term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965; and

(3) the term ''Program'' means the National Aeronautics and Space Administration Science and Technology Scholarship Program established under this section.

(j)(1) There is authorized to be appropriated to the National Aeronautics and Space Administration for the Program $10,000,000 for each fiscal year.

(2) Amounts appropriated under this section shall remain available for 2 fiscal years.

(k) The Administrator may provide temporary internships to full-time students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

SEC. 704. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

(a) CONTINUATION OF PROGRAM.—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

(b) USE OF GRANTS OR COOPERATIVE AGREEMENTS.—The Administrator may use grants or cooperative agreements in carrying out this section.

(c) STATUTORY CONSTRUCTION.—Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.

SEC. 705. ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

(b) REPORT.—Within 1 year after the date of enactment of this Act, the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure and Committee on Science.

SEC. 706. DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS.

The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.

SEC. 707. RESEARCH ON AVIATION TRAINING.

Section 48102(h)(1) of title 49, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

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

''(D) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, on training requirements for pilots and air traffic controllers.''.

SEC. 708. FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport airframe structures. The Center shall—

(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator $500,000 for fiscal year 2004 to carry out this section.

SEC. 709. AIR TRANSPORTATION SYSTEM JOINT PLANNING AND DEVELOPMENT OFFICE.

(a) ESTABLISHMENT.—(1) The Secretary of Transportation shall establish in the Federal Aviation Administration a joint planning and development office to manage work related to the Next Generation Air Transportation System. The office shall be known as the Next Generation Air Transportation System Joint Planning and Development Office (in this section referred to as the ''Office'').

(2) The responsibilities of the Office shall include—

(A) creating and carrying out an integrated plan for a Next Generation Air Transportation System pursuant to subsection (b);

(B) overseeing research and development on that system;

(C) creating a transition plan for the implementation of that system;

(D) coordinating aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

(E) coordinating goals and priorities and coordinating research activities within the Federal Government with United States aviation and aeronautical firms;

(F) coordinating the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

(G) facilitating the transfer of technology from research programs such as the National Aeronautics and Space Administration program and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector; and

(H) reviewing activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense.

(3) The Office shall operate in conjunction with relevant programs in the Department of Defense, the National Aeronautics and Space Administration, the Department of Commerce and the Department of Homeland Security. The Secretary of Transportation may request assistance from staff from those Departments and other Federal agencies.

(4) In developing and carrying out its plans, the Office shall consult with the public and ensure the participation of experts from the private sector including representatives of commercial aviation, general aviation, aviation labor groups, aviation research and development entities, aircraft and air traffic control suppliers, and the space industry.

(b) INTEGRATED PLAN.—The integrated plan shall be designed to ensure that the Next Generation Air Transportation System meets air transportation safety, security, mobility, efficiency, and capacity needs beyond those currently included in the Federal Aviation Administration's operational evolution plan and accomplishes the goals under subsection (c). The integrated plan shall include—

(1) a national vision statement for an air transportation system capable of meeting potential air traffic demand by 2025;

(2) a description of the demand and the performance characteristics that will be required of

the Nation's future air transportation system, and an explanation of how those characteristics were derived, including the national goals, objectives, and policies the system is designed to further, and the underlying socioeconomic determinants, and associated models and analyses;

(3) a multiagency research and development roadmap for creating the Next Generation Air Transportation System with the characteristics outlined under clause (ii), including—

(A) the most significant technical obstacles and the research and development activities necessary to overcome them, including for each project, the role of each Federal agency, corporations, and universities;

(B) the annual anticipated cost of carrying out the research and development activities; and

(C) the technical milestones that will be used to evaluate the activities; and

(4) a description of the operational concepts to meet the system performance requirements for all system users and a timeline and anticipated expenditures needed to develop and deploy the system to meet the vision for 2025.

(c) GOALS.—The Next Generation Air Transportation System shall—

(1) improve the level of safety, security, efficiency, quality, and affordability of the National Airspace System and aviation services;

(2) take advantage of data from emerging ground-based and space-based communications, navigation, and surveillance technologies;

(3) integrate data streams from multiple agencies and sources to enable situational awareness and seamless global operations for all appropriate users of the system, including users responsible for civil aviation, homeland security, and national security;

(4) leverage investments in civil aviation, homeland security, and national security and build upon current air traffic management and infrastructure initiatives to meet system performance requirements for all system users;

(5) be scalable to accommodate and encourage substantial growth in domestic and international transportation and anticipate and accommodate continuing technology upgrades and advances;

(6) accommodate a wide range of aircraft operations, including airlines, air taxis, helicopters, general aviation, and unmanned aerial vehicles; and

(7) take into consideration, to the greatest extent practicable, design of airport approach and departure flight paths to reduce exposure of noise and emissions pollution on affected residents.

(d) REPORTS.—The Administrator of the Federal Aviation Administration shall transmit to the Committee on Commerce, Science, and Transportation in the Senate and the Committee on Transportation and Infrastructure and the Committee on Science in the House of Representatives—

(1) not later than 1 year after the date of enactment of this Act, the integrated plan required in subsection (b); and

(2) annually at the time of the President's budget request, a report describing the progress in carrying out the plan required under subsection (b) and any changes to that plan.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office $50,000,000 for each of the fiscal years 2004 through 2010.

SEC. 710. NEXT GENERATION AIR TRANSPORTATION SENIOR POLICY COMMITTEE.

(a) IN GENERAL.—The Secretary of Transportation shall establish a senior policy committee to work with the Next Generation Air Transportation System Joint Planning and Development Office. The senior policy committee shall be chaired by the Secretary.

(b) MEMBERSHIP.—In addition to the Secretary, the senior policy committee shall be composed of—

(1) the Administrator of the Federal Aviation Administration (or the Administrator's designee);

(2) the Administrator of the National Aeronautics and Space Administration (or the Administrator's designee);

(3) the Secretary of Defense (or the Secretary's designee);

(4) the Secretary of Homeland Security (or the Secretary's designee);

(5) the Secretary of Commerce (or the Secretary's designee);

(6) the Director of the Office of Science and Technology Policy (or the Director's designee); and

(7) designees from other Federal agencies determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system.

(c) FUNCTION.—The senior policy committee shall—

(1) advise the Secretary of Transportation regarding the national goals and strategic objectives for the transformation of the Nation's air transportation system to meet its future needs;

(2) provide policy guidance for the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office;

(3) provide ongoing policy review for the transformation of the air transportation system;

(4) identify resource needs and make recommendations to their respective agencies for necessary funding for planning, research, and development activities; and

(5) make legislative recommendations, as appropriate, for the future air transportation system.

(d) CONSULTATION.—In carrying out its functions under this section, the senior policy committee shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, aviation labor, and the space industry), members of the public, and other interested parties and may do so through a special advisory committee composed of such representatives.

SEC. 711. ROTORCRAFT RESEARCH AND DEVELOPMENT INITIATIVE.

(a) OBJECTIVE.—The Administrator of the Federal Aviation Administration shall establish a rotorcraft initiative with the objective of developing, and demonstrating in a relevant environment, within 10 years after the date of the enactment of this Act, technologies to enable rotorcraft with the following improvements relative to rotorcraft existing as of the date of the enactment of this Act:

(1) 80 percent reduction in noise levels on takeoff and on approach and landing as perceived by a human observer.

(2) Factor of 10 reduction in vibration.

(3) 30 percent reduction in empty weight.

(4) Predicted accident rate equivalent to that of fixed-wing aircraft in commercial service within 10 years after the date of the enactment of this Act.

(5) Capability for zero-ceiling, zero-visibility operations.

(b) IMPLEMENTATION.—Within 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall provide a plan to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate for the implementation of the initiative described in subsection (a).

SEC. 712. AIRPORT COOPERATIVE RESEARCH PROGRAM.

Section 44511 is amended by adding at the end the following new subsection:

''(f) AIRPORT COOPERATIVE RESEARCH PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a 4-year pilot airport cooperative research program to—

''(A) identify problems that are shared by airport operating agencies and can be solved through applied research but that are not being adequately addressed by existing Federal research programs; and

''(B) fund research to address those problems.

''(2) GOVERNANCE.—The Secretary of Transportation shall appoint an independent governing board for the research program established under this subsection. The governing board shall be appointed from candidates nominated by national associations representing public airport operating agencies, airport executives, State aviation officials, and the scheduled airlines, and shall include representatives of appropriate Federal agencies. Section 14 of the Federal Advisory Committee Act shall not apply to the governing board.

''(3) IMPLEMENTATION.—The Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences to provide staff support to the governing board established under paragraph (2) and to carry out projects proposed by the governing board that the Secretary considers appropriate.

''(4) REPORT.—Not later than 6 months after the expiration of the program under this subsection, the Secretary shall transmit to the Congress a report on the program, including recommendations as to the need for establishing a permanent airport cooperative research program.''.

TITLE VIII—MISCELLANEOUS

SEC. 801. DEFINITIONS.

(a) IN GENERAL.—Section 47102 is amended—

(1) by redesignating paragraphs (19) and (20) as paragraphs (24) and (25), respectively;

(2) by inserting after paragraph (18) the following:

''(23) 'small hub airport' means a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the passenger boardings.'';

(3) in paragraph (10) by striking subparagraphs (A) and (B) and inserting following:

''(A) means, unless the context indicates otherwise, revenue passenger boardings in the United States in the prior calendar year on an aircraft in service in air commerce, as the Secretary determines under regulations the Secretary prescribes; and

''(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.'';

(4) by redesignating paragraphs (10) through (18) as paragraphs (14) through (22), respectively;

(5) by inserting after paragraph (9) the following:

''(10) 'large hub airport' means a commercial service airport that has at least 1.0 percent of the passenger boardings.

''(12) 'medium hub airport' means a commercial service airport that has at least 0.25 percent but less than 1.0 percent of the passenger boardings.

''(13) 'nonhub airport' means a commercial service airport that has less than 0.05 percent of the passenger boardings.''; and

(6) by striking paragraph (6) and inserting the following:

''(6) 'amount made available under section 48103' or 'amount newly made available' means the amount authorized for grants under section 48103 as that amount may be limited in that year by a subsequent law, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).''.

(b) CONFORMING AMENDMENT.—Section 47116(b)(1) is amended by striking ''(as defined in section 41731 of this title)''.

SEC. 802. REPORT ON AVIATION SAFETY REPORTING SYSTEM.

Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to

Congress a report on the long-term goals and objectives of the Aviation Safety Reporting System and how such system interrelates with other safety reporting systems of the Federal Government.

SEC. 803. ANCHORAGE AIR TRAFFIC CONTROL.

(a) IN GENERAL.—Not later than September 30, 2004, the Administrator of the Federal Aviation Administration shall complete a study and transmit a report to the appropriate committees regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center at the existing Anchorage Air Route Traffic Control Center facility.

(b) APPROPRIATE COMMITTEES.—In this section, the term ''appropriate committees'' means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 804. EXTENSION OF METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.

Section 49108 is amended by striking ''2004'' and inserting ''2008''.

SEC. 805. IMPROVEMENT OF AVIATION INFORMATION COLLECTION.

(a) IN GENERAL.—Section 329(b)(1) is amended by striking ''except that in no case'' and all that follows through the semicolon at the end and inserting the following: ''except that, if the Secretary requires air carriers to provide flight-specific information, the Secretary—

''(A) shall not disseminate fare information for a specific flight to the general public for a period of at least 9 months following the date of the flight; and

''(B) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rulemaking prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the issuance of a final rule to modernize the Origin and Destination Survey of Airline Passenger Traffic, pursuant to the Advance Notice of Proposed Rulemaking published July 15, 1998 (Regulation Identifier Number 2105–AC71), that reduces the reporting burden for air carriers through electronic filing of the survey data collected under section 329(b)(1) of title 49, United States Code.

SEC. 806. GOVERNMENT-FINANCED AIR TRANSPORTATION.

Section 40118(f)(2) is amended by inserting before the period at the end the following: '', except that it shall not include a contract for the transportation by air of passengers''.

SEC. 807. AIR CARRIER CITIZENSHIP.

Section 40102(a)(15)(C) is amended by inserting ''which is under the actual control of citizens of the United States,'' before ''and in which''.

SEC. 808. UNITED STATES PRESENCE IN GLOBAL AIR CARGO INDUSTRY.

Section 41703 is amended by adding at the end the following:

''(e) CARGO IN ALASKA.—

''(1) IN GENERAL.—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

''(2) ELIGIBLE CARGO.—For purposes of paragraph (1), the term 'eligible cargo' means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

''(A) under the code of a United States air carrier providing air transportation to Alaska;

''(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

''(C) under a term arrangement or block space agreement with an air carrier; or

''(D) under the code of a United States air carrier for purposes of transportation within the United States.''.

SEC. 809. AVAILABILITY OF AIRCRAFT ACCIDENT SITE INFORMATION.

(a) DOMESTIC AIR TRANSPORTATION.—Section 41113(b) is amended—

(1) in paragraph (16) by striking ''the air carrier'' the third place it appears; and

(2) by adding at the end the following:

''(17)(A) An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

''(B) At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by air carrier representatives about compensation by the air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

''(18) An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the air carrier's flight if that city is located in the United States.''.

(b) FOREIGN AIR TRANSPORTATION.—Section 41313(c) is amended by adding at the end the following:

''(17) NOTICE CONCERNING LIABILITY FOR MANMADE STRUCTURES.—

''(A) IN GENERAL.—An assurance that, in the case of an accident that results in significant damage to a manmade structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

''(B) MINIMUM CONTENTS.—At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

''(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.—An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.''.

(c) UPDATE PLANS.—Air carriers and foreign air carriers shall update their plans under sections 41113 and 41313 of title 49, United States Code, respectively, to reflect the amendments made by subsections (a) and (b) of this section not later than 90 days after the date of enactment of this Act.

SEC. 810. NOTICE CONCERNING AIRCRAFT ASSEMBLY.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

''§ 41723. Notice concerning aircraft assembly

''The Secretary of Transportation shall require, beginning after the last day of the 18-month period following the date of enactment of this section, an air carrier using an aircraft to provide scheduled passenger air transportation to display a notice, on an information placard available to each passenger on the aircraft, that informs the passengers of the nation in which the aircraft was finally assembled.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following:

''41723. Notice concerning aircraft assembly.''.

SEC. 811. TYPE CERTIFICATES.

Section 44704(a) is amended by adding at the end the following:

''(3) If the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. Such other person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if such other person is the holder of the type certificate or has permission from the holder.''.

SEC. 812. RECIPROCAL AIRWORTHINESS CERTIFICATION.

(a) IN GENERAL.—As part of their bilateral negotiations with foreign nations and their civil aviation counterparts, the Secretary of State and the Administrator of the Federal Aviation Administration shall facilitate the reciprocal airworthiness certification of aviation products.

(b) RECIPROCAL AIRWORTHINESS DEFINED.—In this section, the term ''reciprocal airworthiness certification of aviation products'' means that the regulatory authorities of each nation perform a similar review in certifying or validating the certification of aircraft and aircraft components of other nations.

SEC. 813. INTERNATIONAL ROLE OF THE FAA.

Section 40104(b) is amended to read as follows:

''(b) INTERNATIONAL ROLE OF THE FAA.—The Administrator shall promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel by exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector.''.

SEC. 814. FLIGHT ATTENDANT CERTIFICATION.

(a) IN GENERAL.—Chapter 447 is further amended by adding at the end the following:

''§ 44728. Flight attendant certification

''(a) CERTIFICATE REQUIRED.—

''(1) IN GENERAL.—No person may serve as a flight attendant aboard an aircraft of an air carrier unless that person holds a certificate of demonstrated proficiency from the Administrator of the Federal Aviation Administration. Upon the request of the Administrator or an authorized representative of the National Transportation Safety Board or another Federal agency, a person who holds such a certificate shall present the certificate for inspection within a reasonable period of time after the date of the request.

''(2) SPECIAL RULE FOR CURRENT FLIGHT ATTENDANTS.—An individual serving as a flight attendant on the effective date of this section may continue to serve aboard an aircraft as a flight attendant until completion by that individual of the required recurrent or requalification training and subsequent certification under this section.

''(3) TREATMENT OF FLIGHT ATTENDANT AFTER NOTIFICATION.—On the date that the Administrator is notified by an air carrier that an individual has the demonstrated proficiency to be a flight attendant, the individual shall be treated for purposes of this section as holding a certificate issued under the section.

''(b) ISSUANCE OF CERTIFICATE.—The Administrator shall issue a certificate of demonstrated proficiency under this section to an individual after the Administrator is notified by the air carrier that the individual has successfully completed all the training requirements for flight attendants approved by the Administrator.

''(c) DESIGNATION OF PERSON TO DETERMINE SUCCESSFUL COMPLETION OF TRAINING.—In accordance with part 183 of chapter 14, Code of Federal Regulation, the director of operations of an air carrier is designated to determine that an individual has successfully completed the training requirements approved by the Administrator for such individual to serve as a flight attendant.

''(d) SPECIFICATIONS RELATING TO CERTIFICATES.—Each certificate issued under this section shall—

''(1) be numbered and recorded by the Administrator;

''(2) contain the name, address, and description of the individual to whom the certificate is issued;

''(3) is similar in size and appearance to certificates issued to airmen;

''(4) contain the airplane group for which the certificate is issued; and

''(5) be issued not later than 120 days after the Administrator receives notification from the air carrier of demonstrated proficiency and, in the case of an individual serving as flight attendant on the effective date of this section, not later than 1 year after such effective date.

''(e) APPROVAL OF TRAINING PROGRAMS.—Air carrier flight attendant training programs shall be subject to approval by the Administrator. All flight attendant training programs approved by the Administrator in the 1-year period ending on the date of enactment of this section shall be treated as providing a demonstrated proficiency for purposes of meeting the certification requirements of this section.

''(f) FLIGHT ATTENDANT DEFINED.—In this section, the term 'flight attendant' means an individual working as a flight attendant in the cabin of an aircraft that has 20 or more seats and is being used by an air carrier to provide air transportation.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 447 is further amended by adding at the end the following:

''44728. Flight attendant certification.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the 365th day following the date of enactment of this Act.

SEC. 815. AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled ''The Airliner Cabin Environment and the Health of Passengers and Crew''.

(b) REQUIRED ACTIVITIES.—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew;

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

(4) analyze and study cabin air pressure and altitude; and

(5) establish an air quality incident reporting system.

(c) REPORT.—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

SEC. 816. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) CONSULTATION.—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

SEC. 817. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.

(a) IN GENERAL.—The Secretary of Transportation may make grants to reimburse the following general aviation entities for the security costs incurred and revenue foregone as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) General aviation entities affected by implementation of section 44939 of title 49, United States Code.

(4) General aviation entities that were affected by Federal Aviation Administration Notices to Airmen FDC 2/1099 and 3/1862 or section 352 of the Department of Transportation and Related Agencies Appropriations Act, 2003 (Public Law 108–7, division I), or both.

(5) Sightseeing operations that were not authorized to resume in enhanced class B air space under Federal Aviation Administration notice to airmen 1/1225.

(b) DOCUMENTATION.—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) GENERAL AVIATION ENTITY DEFINED.—In this section, the term ''general aviation entity'' means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) manufactures nonmilitary aircraft with a maximum seating capacity of fewer than 20 passengers or aircraft parts to be used in such aircraft;

(3) provides services necessary for nonmilitary operations under such part 91; or

(4) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, flight schools, manufacturers of general aviation aircraft and products, persons engaged in nonscheduled aviation enterprises, and general aviation independent contractors.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000. Such sums shall remain available until expended.

SEC. 818. INTERNATIONAL AIR SHOW.

If the Secretary of Defense conducts activities necessary to enable the United States to host a major international air show in the United States, the Secretary of Defense shall coordinate such activities with the Secretary of Transportation and the Secretary of Commerce.

SEC. 819. REPORT ON CERTAIN MARKET DEVELOPMENTS AND GOVERNMENT POLICIES.

Within 6 months after the date of enactment of this Act, the Department of Commerce, in consultation with the Department of Transportation and other appropriate Federal agencies, shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure a report about market developments and government policies influencing the competitiveness of the United States jet transport aircraft industry that—

(1) describes the structural characteristics of the United States and the European Union jet transport industries, and the markets for these industries;

(2) examines the global market factors affecting the jet transport industries in the United States and the European Union, such as passenger and freight airline purchasing patterns, the rise of low-cost carriers and point-to-point service, the evolution of new market niches, and direct and indirect operating cost trends;

(3) reviews government regulations in the United States and the European Union that have altered the competitive landscape for jet transport aircraft, such as airline deregulation, certification and safety regulations, noise and emissions regulations, government research and development programs, advances in air traffic control and other infrastructure issues, corporate and air travel tax issues, and industry consolidation strategies;

(4) analyzes how changes in the global market and government regulations have affected the competitive position of the United States aerospace and aviation industry vis-a-vis the European Union aerospace and aviation industry; and

(5) describes any other significant developments that affect the market for jet transport aircraft.

SEC. 820. INTERNATIONAL AIR TRANSPORTATION.

It is the sense of Congress that, in an effort to modernize its regulations, the Department of Transportation should formally define ''Fifth Freedom'' and ''Seventh Freedom'' consistently for both scheduled and charter passenger and cargo traffic.

SEC. 821. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES.

The Secretary of Homeland Security, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for—

(1) the screening of catering supplies; and

(2) checking documents at security checkpoints.

SEC. 822. CHARTER AIRLINES.

(a) IN GENERAL.—Section 41104(b)(1) is amended—

(1) by striking ''paragraph (3)'' and inserting ''paragraphs (3) and (4)'';

(2) by inserting a comma after ''regularly scheduled charter air transportation''; and

(3) by striking ''flight unless such air transportation'' and all that follows through the period at the end and inserting the following: ''flight, to or from an airport that—

''(A) does not have an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation); or

''(B) has an airport operating certificate issued under part 139 of title 14, Code of Federal Regulations (or any subsequent similar regulation) if the airport—

''(i) is a reliever airport (as defined in section 47102) and is designated as such in the national plan of integrated airports maintained under section 47103; and

''(ii) is located within 20 nautical miles (22 statute miles) of 3 or more airports that each annually account for at least 1 percent of the total United States passenger enplanements and at least 2 of which are operated by the sponsor of the reliever airport.''.

(b) WAIVERS.—Section 41104(b) is amended by adding at the end the following:

''(4) WAIVERS.—The Secretary may waive the application of paragraph (1)(B) in cases in which the Secretary determines that the public interest so requires.''.

SEC. 823. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.

(a) SECURITY PLAN.—The Secretary of Homeland Security shall develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport.

(b) LANDINGS AND TAKEOFFS.—The Administrator of the Federal Aviation Administration shall allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the Airport except during any period that the President suspends the plan developed under subsection (a) due to national security concerns.

(c) REPORT.—If the President suspends the security plan developed under subsection (a), the President shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the reasons for the suspension not later than 30 days following the first day of the suspension. The report may be submitted in classified form.

SEC. 824. REVIEW OF AIR CARRIER COMPENSATION.

Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the criteria and procedures used by the Secretary of Transportation under the Air Transportation Safety and System Stabilization Act (Public Law 107–42) to compensate air carriers after the terrorist attack of September 11, 2001, with a particular focus on whether it is appropriate—

(1) to compensate air carriers for the decrease in value of their aircraft after September 11, 2001; and

(2) to ensure that comparable air carriers receive comparable percentages of the maximum compensation payable under section 103(b)(2) of such Act (49 U.S.C. 40101 note).

SEC. 825. NOISE CONTROL PLAN FOR CERTAIN AIRPORTS.

(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, or any other provision of law or regulation, a sponsor of a commercial service airport that does not own the airport land and is a party to a long-term lease agreement with a Federal agency (other than the Department of Defense or the Department of Transportation) may impose restrictions on, or prohibit, the operation of Stage 2 aircraft weighing less than 75,000 pounds, in order to help meet the noise control plan contained within the lease agreement. A use restriction imposed pursuant to this section must contain reasonable exemptions for public health and safety.

(b) PUBLIC NOTICE AND COMMENT.—Prior to imposing restrictions on, or prohibiting, the operation of Stage 2 aircraft weighing less than 75,000 pounds, the airport sponsor must provide reasonable notice and the opportunity to comment on the proposed airport use restriction limited to no more than 90 days.

(c) DEFINITIONS.—In this section, the terms ''Stage 2 aircraft'' and ''Stage 3 aircraft'' have the same meaning as those terms have in chapter 475 of title 49, United States Code.

SEC. 826. GAO REPORT ON AIRLINES' ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION.

(a) FINDING.—Congress finds that the United States Government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, Congress needs more frequent information and independently verified information about the financial condition of these airlines.

(b) GAO REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall prepare a report for Congress analyzing the financial condition of the United States airline industry in its efforts to reduce the costs, improve the earnings and profits and balances of each individual air carrier. The report shall recommend steps that the industry should take to become financially self-sufficient.

(c) GAO AUTHORITY.—In order to compile the report required by subsection (b), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the report. The Comptroller General shall submit with the report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the report required by subsection (b) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 827. PRIVATE AIR CARRIAGE IN ALASKA.

(a) IN GENERAL.—Due to the demands of conducting business within and from the State of Alaska, the Secretary of Transportation shall permit, under the operating rules of part 91 of title 14 of the Code of Federal Regulations where common carriage is not involved, a company, located in the State of Alaska, to organize a subsidiary where the only enterprise of the subsidiary is to provide air carriage of officials, employees, guests, and property of the company, or its affiliate, when the carriage—

(1) originates or terminates in the State of Alaska;

(2) is by an aircraft with no more than 20 seats;

(3) is within the scope of, and incidental to, the business of the company or its affiliate; and

(4) no charge, assessment, or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting a company from making intermediate stops in providing air carriage under this section.

SEC. 828. REPORT ON WAIVERS OF PREFERENCE FOR BUYING GOODS PRODUCED IN THE UNITED STATES.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the waiver contained in section 50101(b) of title 49, United States Code (relating to buying goods produced in the United States). The report shall, at a minimum, include—

(1) a list of all waivers granted pursuant to that section during the 2-year period ending on the date of enactment of that section; and

(2) for each such waiver—

(A) the specific authority under such section 50101(b) for granting the waiver; and

(B) the rationale for granting the waiver.

SEC. 829. NAVIGATION FEES.

(a) IN GENERAL.—Section 4(b) of the Rivers and Harbors Appropriation Act of July 5, 1884 (33 U.S.C. 5(b); 116 Stat. 2133), is amended—

(1) by striking ''or'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(3) by adding at the end the following:

''(3) property taxes on vessels or watercraft, other than vessels or watercraft that are primarily engaged in foreign commerce if those taxes are permissible under the United States Constitution.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) is effective on and after November 25, 2002.

TITLE IX—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 901. EXTENSION OF EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking ''October 1, 2003'' and inserting ''October 1, 2007'', and

(2) by inserting before the semicolon at the end of subparagraph (A) the following: ''or the Vision 100—Century of Aviation Reauthorization Act''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(f) of the Internal Revenue Code of 1986 is amended by striking ''October 1, 2003'' and inserting ''October 1, 2007''.

SEC. 902. TECHNICAL CORRECTION TO FLIGHT SEGMENT.

(a) SPECIAL RULE.—Section 4261(e)(4) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR AMOUNTS PAID FOR DOMESTIC SEGMENTS BEGINNING AFTER 2002.—If an amount is paid during a calendar year for a domestic segment beginning in a later calendar year, then the rate of tax under subsection (b) on such amount shall be the rate in effect for the calendar year in which such amount is paid.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DON YOUNG,
JOHN MICA,
VERNON J. EHLERS,
ROBIN HAYES,
DENNY REHBERG,
JOHNNY ISAKSON,

From the Committee on Energy and Commerce, for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JOE BARTON,

From the Committee on Government Reform, for consideration of secs 404 and 438 of

the House bill and sec. 108 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,
CHRISTOPHER SHAYS,

From the Committee on the Judiciary, for consideration of secs. 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference:

JAMES SENSENBRENNER, JR.,
HOWARD COBLE,

From the Committee on Resources, for consideration of secs. 204, and 409 of the House bill and sec. 201 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,
JIM GIBBONS,

Provided that Mr. Renzi is appointed in lieu of Mr. Pombo for consideration of section 409 of the House bill, and modifications committed to conference:

RICK RENZI,

From the Committee on Science, for consideration of sec. 102 of the House bill and secs. 102, 104, 621, 622, 641, 642, 661, 662, 663, 667, and 669 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
DANA ROHRABACHER,

From the Committee on Ways and Means, for consideration of title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference:

BILL THOMAS,
DAVE CAMP,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
CONRAD BURNS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2115), to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. SHORT TITLE

House bill

''Flight 100—Century of Aviation Reauthorization Act''.

Senate amendment

''Aviation Investment and Revitalization Vision Act''.

Conference substitute

''Vision 100—Century of Aviation Reauthorization Act''.

2. LENGTH OF AUTHORIZATION

House bill

4 years.

Senate amendment

3 years.

Conference substitute

House bill.

3. FINDINGS

House bill

No provision.

Senate amendment

Contains findings about the importance of aviation and the need to invest more into it.

Conference substitute

Contains some of the findings in the Senate amendment.

4. FAA OPERATIONS

House bill

Authorizes $7.591 billion in 2004, $7.732 billion in 2005, $7.889 billion in 2006, and $8,064 billion in 2007 for the operating costs of the FAA.

Senate amendment

Authorizes same amount for first 3 years. No authorization for 2007.

Conference substitute

House bill.

5. FAA TRAINING FACILITY

House bill

Authorizes some of this money to be used to fully utilize the FAA's Palm Coast management training facility.

Senate amendment

No provision.

Conference substitute

House bill funded out of the Operations account. Authorize funding for the FAA Center for Management Development to operate training courses and to support associated student travel for both residential and field courses.

6. AEROSPACE AND AVIATION LIAISON

House bill

Directs the President to establish a task force to look for ways to ensure that technology developed for military aircraft is more quickly and easily transferred to applications for improving and modernizing the fleet of civilian aircraft.

Senate amendment

Section 621. Establishes an office in DOT to coordinate research, development of new technologies, transfer of technology from research done by NASA and DOD to the private sector, review activities related to noise and emissions. One time and annual report required. $2 million is authorized over 2 years.

Conference substitute

Assigns the newly established Air Transportation System Joint Planning and Development Office responsibility to facilitate the transfer of technology from research programs such as those managed by the National Aeronautics and Space Administration and the Department of Defense Advanced Research Projects Agency to Federal agencies with operational responsibilities, and to the private sector.

7. COMPETITIVENESS OF U.S. JET TRANSPORTATION INDUSTRY

House bill

No provision.

Senate amendment

Section 623. Within 6 months the office established above shall report on the market developments and government policies influencing U.S. competitiveness.

Conference substitute

Section 819. Senate Amendment with modifications.

8. NEXT GENERATION AIR TRAFFIC CONTROL OFFICE

House bill

Authorizes funds to be used to establish an office in the FAA to develop and plan for the implementation of the next generation air traffic control system.

Senate amendment

Similar provision but sets forth in greater detail the duties of the office. Authorizes $300 million over 7 years. Head of office reports directly to the Administrator.

Conference substitute

Establishes a Next Generation Air Transportation System Joint Planning and Development Office. Requires the office to produce an integrated research and development plan to meet air transportation needs in the year 2025. Requires the plan to be transmitted to Congress within one year after the date of enactment, and an annual update describing the progress in carrying out the plan. Authorizes $50 million a year through FY 2010.

9. TASK FORCE ON FUTURE OF AIR TRANSPORTATION SYSTEM

House bill

Implements the recommendation of the National Commission on the Future of the Aerospace Industry and requires the President to establish a Task Force to develop an integrated plan to transform the Nation's air traffic control and air transportation system to meet its future needs.

Senate amendment

No provision.

Conference substitute

Requires the Secretary of Transportation to establish a Next Generation Air Transportation Senior Policy Committee to work with the Joint Planning and Development Office. Members shall be the Administrator or designee from NASA and FAA, the Secretary of Defense, Secretary of Homeland Security, Secretary of Commerce, Director of the Office of Science and Technology Policy, and designees from Federal agencies determined by the Secretary of Transportation to have an important role. The Senior Policy Committee shall advise the Secretary and provide policy guidance on the integrated plan for the air transportation system to be developed by the Next Generation Air Transportation System Joint Planning and Development Office.

10. APPROACH PROCEDURES

House bill

Section 101, (a) authorizes use of some of the FAA operations money to establish approach and departure procedures using GPS and ADS–B in order to meet the needs of air ambulance services.

Senate amendment

No provision.

Conference substitute

In lieu of the House provision, section 103(b) changes the expiration date of the current authorizations in paragraphs (C), (D), and (E) of section 106(k)(2) to conform to the 4-year authorization in this bill. These authorizations encourage the Federal Aviation Administration to establish helicopter and tiltrotor approach and departure procedures using advanced technologies, such as the Global Positioning System and automated dependent surveillance, to permit operations in adverse weather conditions to meet the needs of general aviation, new tiltrotor technology, and air ambulance services.

11. AIR TRAFFIC CONTROLLERS

House bill

Paragraph (k)(5) in section 101 authorizes some of this money to be used to hire additional air traffic controllers in order to accommodate the growth in air traffic and address the expected increase in retirement of experienced controllers. Subsection (c) of section 101 directs the FAA to develop a human capital workforce strategy to address

the need for more air traffic controllers as called for by the General Accounting Office.

Senate amendment

Section 103(b). Requires FAA beginning in FY 2004 budget submission and thereafter to include description of controller staffing plan including strategies for addressing anticipated retirements.

Conference substitute

Section 221 (a) includes Senate section 103(b) but starts with 2005 budget submission.

Section 221(b) adopts subsection (c) of House bill.

12. ALASKAN AVIATION CORRIDORS

House bill

Authorizes funds to be used to complete the mapping of Alaska's main aviation corridors.

Senate amendment

No provision.

Conference substitute

House bill.

13. AVIATION SAFETY REPORTING SYSTEM

House bill

Authorizes $3.4 million to be used for the Aviation Safety Reporting System. Calls for a report on the Aviation Safety Reporting System.

Senate amendment

No provision.

Conference substitute

House bill.

14. BUREAU OF TRANSPORTATION STATISTICS

House bill

Authorizes $3.971 million in 04, $4.045 million in 05, $4.127 million in 06, and $4.219 million in 05 from the Trust Fund for the Bureau of Transportation Statistics' activities collecting and analyzing aviation data.

Senate amendment

No provision.

Conference substitute

House bill.

15. AIR NAVIGATION FACILITIES AND EQUIPMENT (F&E)

House bill

Authorizes $3.138 billion in 2004, $2.993 billion in 2005, $3.053 billion in 2006, and $3.110 billion in 2007.

Senate amendment

Authorizes $2.196 billion in 2004, $2.971 in 2005, and $3.030 billion for 2006. No authorization for 2007. Requires biannual reports on the changes in budget and schedule, and technical risks, of 10 largest F&E programs.

Conference substitute

House bill with Senate report. The Managers expect that no research and development activities will be funded from the facilities and equipment account.

16. GULF OF MEXICO

House bill

Money is authorized from the F&E account to improve the safety and efficiency of air operations in the Gulf of Mexico.

Senate amendment

Similar provision but worded differently. Money is authorized from general fund.

Conference substitute

House bill.

17. WAKE TURBULENCE

House bill

$20 million per year for 4 years is authorized from F&E for FAA to demonstrate the benefits of a wake vortex advisory system.

Senate amendment

$500,000 is authorized for 1 year from RED for FAA to contract with the National Research Council for an assessment of FAA's wake vortex research program. Report required in 1 year.

Conference substitute

House provision for the life of bill, except the Managers agreed to delete a specific dollar amount and change the wording to allow development and analysis of multiple systems.

18. PRECISION APPROACH LANDING SYSTEMS

House bill

$20 million per year is authorized per year from F&E for precision approach landing systems in mountainous areas contingent on FAA certifying or approving these systems. Maintenance of equipment not included.

Senate amendment

Similar provision but no requirement for FAA approval and no specific sum is authorized. Money comes from general fund. Maintenance of equipment is included.

Conference substitute

House bill but without specifying a dollar amount.

19. STANDBY POWER EFFICIENCY PROGRAM

House bill

No provision.

Senate amendment

Authorizes funding for a program to improve power stations at FAA sites.

Conference substitute

Senate amendment.

20. ANCHORAGE AIR TRAFFIC CONTROL FACILITIES

House bill

No provision.

Senate amendment

Requires a report from FAA on the feasibility of consolidating air traffic control facilities.

Conference substitute

Senate amendment.

21. AIR TRAFFIC CONTROL COLLEGIATE TRAINING INITIATIVE

House bill

No provision.

Senate amendment

Authorizes DOT to expend funds on this initiative.

Conference substitute

Senate amendment but funded from the FAA's operating account (49 U.S.C. 106(k)).

22. RESEARCH

House bill

No provision.

Senate amendment

Authorizes funding for FAA research and development.

Conference substitute

Authorizes all research and development activities for the agency within the R&D section of Title 49. The Managers expect these research and development activities to be funded from the FAA's R,E&D account.

23. AVIATION SAFETY WORKFORCE INITIATIVE

House bill

No provision.

Senate amendment

NASA and FAA shall establish a joint program to make grants to students in aviation fields. Such sums are authorized to NASA and FAA to carry out this program. Report required in 180 days.

Conference substitute

Senate amendment.

24. SCHOLARSHIPS

House bill

No provision.

Senate amendment

NASA and FAA shall develop a student loan program for those studying in an aviation field. Money is authorized and a report is required.

Conference substitute

Establishes a scholarship and internship program for those studying in an aviation field.

25. AIRFIELD PAVEMENT

House bill

No provision.

Senate amendment

Requires FAA to continue the program of awarding grants to foundations to do research on airfield pavement. But this should not get higher priority than other research programs.

FAA shall review its standards for airfield pavement thickness and revise them if needed to meet the 20–year life requirement for such pavement. Report required in 1 year.

Conference substitute

Senate amendment, except Conferees agreed to strike any reference to ''rigid concrete'' and to amend 47102(3)(H) to make nonhubs eligible for AIP grants for pavement maintenance.

26. CERTIFICATION METHODS

House bill

No provision.

Senate amendment

FAA shall conduct research to develop analytical tools to improve existing certification methods and reduce the cost for certification of new products.

Conference substitute

Senate amendment.

27. NEW TECHNOLOGIES

House bill

No provision.

Senate amendment

FAA may conduct a limited pilot program to provide incentives to airlines to use new technologies. $500,000 is authorized from the general fund in 2004 for this program.

Conference substitute

Senate amendment except authorized from Facilities and Equipment.

28. FAA CENTER FOR EXCELLENCE

House bill

No provision.

Senate amendment

FAA shall develop a Center for Excellence focused on research and training on composite materials.

Conference substitute

Senate amendment.

29. REPORT ON ENVIRONMENTAL IMPROVEMENTS

House bill

No provision.

Senate amendment

Requires a study on ways to reduce aircraft noise and emissions. Report required in 1 year. $500,000 is authorized.

Conference substitute

Authorizes $20 million a year for research on enabling technologies to reduce noise and emissions pollution.

30. AIRPORT IMPROVEMENT PROGRAM (AIP)

House bill

$3.4 billion in 2004, increasing by $200 million each of 3 years thereafter. No AIP money for administrative expenses.

Senate amendment

$3.4 billion in 2004, increasing by $100 million in each of 2 years thereafter. Authorizes use of AIP for administrative expenses.

Conference substitute

Senate amendment for the length of the bill (4 years). However, the substitute does not authorize use of AIP for administrative expenses. The Managers believe that AIP money should not be used for research, as that should be done in the research account.

31. CONTRACT TOWER PROGRAM

House bill

Authorizes funding for the contract tower program for 4 years increasing funding by 500,000 each year. Updates the section on the FAA's contract tower program by deleting the 1987 date and increases the maximum Federal share (from $1.1 million to $1.5 million) for the construction of a tower under this program.

Senate amendment

Same provision with respect to funding but for only 3 years. Allows qualified entities to contract for towers. Same provision with respect to the Federal share.

Conference substitute

Senate amendment, but for 4 years.

32. UNDERSERVED AIRPORTS

House bill

Subsection (b) of section 104 authorizes funding for 5 years at $35 million per year for the program established in AIR 21 to improve service at underserved airports.

Subsection (b) of section 415 revises this program by eliminating the per-State limit on the number of communities that can participate and by giving priority to those communities that can use the money in the fiscal year that they receive it.

Senate amendment

Section 302, subsection (a) authorizes funding for 3 years at $27.5 million per year for this program. $275,000 may be used for administrative costs.

Subsection (b) allows communities to participate more than once but not for the same project. Section 354(c) amends section 41734(h) by striking ''an airport'' and inserting ''each airport''.

Conference substitute

House section 104 (b) and Senate section 302 (b). House section 415 (b) but retain per-State limit on a per year basis.

The Managers continue to be concerned about air service to small and medium sized airports. Section 203 of AIR 21 (114 Stat. 92), codified at section 41743 of title 49, included a pilot program to make grants to small communities to help them bolster their air service. This program is only now beginning to get underway. The Managers believe this program will lead to the desired air service improvements and the reported bill reauthorizes it for another 5 years at $35 million per year. In selecting communities for participation in this program, the Managers encourage the Secretary of Transportation to give preference to airports that have demonstrated the ability to sustain service and that have strong support from the local community.

33. REGIONAL JET LOAN GUARANTEES

House bill

Reauthorizes the program to permit loan guarantees to be offered for the purchase of regional jets to serve small airports.

Senate amendment

No provision.

Conference substitute

No provision.

34. TRUST FUND GUARANTEE

House bill

Reauthorizes for 4 years the procedural protections in AIR 21 that ensure that all Trust Fund revenue and interest is fully spent and that the AIP and F&E programs are fully funded at their authorized levels.

Senate amendment

Same provision, worded differently, for 3 years.

Conference substitute

House bill.

35. DESIGN-BUILD

House bill

Continues for another 4 years the provision in existing law permitting contractors to both design and build 7 airport improvement projects.

Senate amendment

Makes existing law permanent and removes the 7–airport project limit.

Conference substitute

Senate amendment. The Committee understands that other alternative qualifications-based methods exist such as job order contracting and construction manager at risk. These alternative qualifications-based methods are acceptable under existing regulations and statute. The term ''job order contracting'' means an agreement that provides for the purchase of indefinite and limited quantities of construction pursuant to specific work orders issued to the contractor. The term ''construction manager at risk'' means an agreement that provides for preconstruction services by a contractor during or after design. Section 181 is intended to cover traditional design-build techniques that are not otherwise permitted.

36. METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (MWAA)

House bill

Reauthorizes MWAA's ability to receive AIP grants until 2007. Section 412(g) repeals the provision requiring this periodic reauthorization.

Senate amendment

Requires MWAA, with DOT, to study the feasibility of housing gates of the two air shuttles in one terminal.

Conference substitute

House bill, however the Managers agreed not to repeal the provision requiring periodic reauthorization and to require MWAA to seek reauthorization in 2008.

37. WAR RISK INSURANCE

House bill

Makes permanent war risk insurance for international flights and for non-premium insurance. War risk insurance for domestic flights would continue to be subject to periodic reauthorizations. Permits DOT to keep in effect after August 31, 2004 the war risk insurance policies that must be in effect until that date. Permits DOT to extend the $100 million cap on liability for third party damages to U.S. aircraft manufacturers until the end of next year. Allows DOT to provide war risk insurance coverage to U.S. aircraft manufacturers and to vendors, agents, and subcontractors of airlines but only to the extent that the loss involved aircraft of a U.S. airline. Makes technical corrections.

Senate amendment

Reauthorizes the program for 3 years. Allows DOT to provide war risk insurance to a U.S. aircraft manufacturer for loss of an aircraft of a U.S. airline in excess of $50,000,000 or in excess of manufacturer's primary insurance. Includes conforming amendments.

Conference substitute

Amends Section 44310 to extend the effective date of the program to March 30, 2008. DOT is allowed to provide war risk insurance to a U.S. aircraft manufacturer for loss of an aircraft of a U.S. airline in excess of $50,000,000 or in excess of the manufacturer's primary insurance.

38. PILOT PROGRAM FOR INNOVATIVE FINANCING FOR TERMINAL AUTOMATION REPLACEMENT SYSTEMS

House bill

Authorizes FAA to conduct a pilot program to test the cost-effectiveness and feasibility of innovative financing techniques to purchase and install terminal automation replacement systems. This proposal is designed to replace existing obsolete air traffic control equipment at FAA TRACONS. This section provides $200,000,000 in FY 2004 from the Facilities and Equipment Account for this pilot program and allows the FAA to make multi-year advance contract provisions to achieve economic-lot purchases and more efficient production rates.

Senate amendment

No provision.

Conference substitute

House bill, however the pilot program is not limited to any particular technology or system.

39. COST SHARING OF ATC MODERNIZATION PROJECTS

House bill

No provision.

Senate amendment

DOT may make 10 grants per year for ATC projects that are certified or approved by FAA and that promote safety, efficiency or mobility. The money shall come from the F&E account. It shall be limited to $5 million per project. The Federal share of the project shall be limited to 33%. The local share shall come from non-Federal sources including PFCs. Facilities and equipment obtained through this program may be transferred to FAA. FAA shall issue guidelines for this program without being subject to the APA.

Conference substitute

Senate amendment but limited to the purchase of equipment and software.

40. PROJECT STREAMLINING

House bill

Provides that the Title may be cited as the ''Airport Streamlining Approval Process Act of 2003''. Makes a number of findings regarding our Nation's major airports and the environmental review process for airport capacity projects at congested airports.

Senate amendment

No provision.

Conference substitute

Subtitle renamed ''Aviation Development Streamlining.'' Provides that the Title may be cited as the ''Aviation Streamlining Approval Process Act of 2003''. Findings are the same as the House bill.

41. PROMOTION OF NEW RUNWAYS—AIRPORT CAPACITY PROJECTS

House bill

Provides that the Administrator shall take action to encourage the construction of airport capacity enhancement projects at congested airports. This is designed to encourage the FAA to take a more proactive approach in encouraging the construction of new runways when it determines that it would be in the national interest.

Senate amendment

Section 47701, takes a different approach by requiring the Secretary to identify airports, among FAA's Airport Capacity Benchmark Report 2001, with delays significantly affecting the national system. This section also requires the Secretary to set up a task force and conduct a capacity enhancement study (CES) from which identified airports would be directed to engage in runway expansion processes. Based on the CES, an airport would be required to complete the planning and environmental review process within 5 years after CES is submitted to DOT. If

an identified airport declines to undertake expansion projects, they will be ineligible for planning and other expansion funding and cannot issue passenger facility fees. The Secretary must make every attempt to expedite funding for airports that do comply.

Section 47702, provides for designation of airport development projects as national capacity projects if they will significantly enhance the capacity of the national air transportation system. The designation is effective for 5 years.

Conference substitute

Adopted the Senate title ''Airport Capacity Enhancement'' and the provisions of the House bill.

42. DOT AS LEAD AGENCY

House bill

Section 47171, subsection (a) requires the Secretary to develop and implement a coordinated airport project review process for airport capacity enhancement projects at congested airports.

Subsection (b) provides for a coordinated review process for all environmental reviews, analyses, opinions, permits, licenses, and approvals to be conducted concurrently and completed within a time period established by the Secretary in cooperation with the agencies involved.

Subsection (c) requires that for each airport capacity enhancement project at a congested airport, the Secretary shall identify all Federal and State agencies that may have jurisdiction over environmental-related matters, may be required by law to conduct an environment review, or may have jurisdiction to determine whether to issue an environmental-related permit, license, or approval for the project.

Subsection (d) allows a State and its associated agencies, consistent with State law, to choose to participate in the coordinated review process for a project at an airport within that State.

Subsection (e) allows the coordinated review process for a project to be incorporated into a Memorandum of Understanding between the Secretary and the heads of other Federal and State agencies identified in subsection (c), and the airport involved.

Subsection (f) sets forth the notification and reporting requirements should the Secretary determine that a Federal agency, State agency, or airport sponsor participating in the coordinated review process has not met a deadline established under subsection (b).

Subsection (g) provides that for any environmental review process or approval issued or made by a Federal or State agency participating in a coordinated review process requiring an analysis of the purpose and need for a project, the agency is bound by the project's purpose and need as defined by the Secretary.

Subsection (h) provides that the Secretary shall determine the reasonable alternatives to an airport capacity enhancement project at a congested airport and any other Federal or state agency participating in a coordinated review process shall consider only those alternatives to the project that the Secretary has determined are reasonable.

Senate amendment

Section 47703, subsection (a) similarly requires the Secretary to implement an expedited coordinated environmental review process for national capacity projects. Includes a date certain deadline for completing all reviews.

Subsection (b) requires each Federal agency/deptartment to accord the national capacity project environmental review the highest possible priority and to conduct the review expeditiously. If not complying then the Secretary shall notify Congress immediately.

Subsection (c) requires the designation of a Project Coordinator who shall, among other things, coordinate all activities of Federal, State and local agencies involved in the project.

Subsection (c)(1) requires Secretary to designate a project coordinator and establish an environmental impact team for each national capacity project. Subsection (c)(2) sets forth what the project coordinator and the EIS team shall do. Adds 180 days extra time and it is not part of the NEPA process.

Subsection (a) requires FAA to publish an additional notice in the FR for each airport capacity enhancement project at a congested airport requesting comments on reasonable alternatives. Subsection (b) provides, outside of NEPA, that an alternative shall be considered reasonable if certain listed criteria are met.

Subsection (d) provides that the Secretary's determination, not later than 90–days after last day of comment period, is binding on ''all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project.''

Subsection (e) states that the section does not apply to alternatives analysis under NEPA and does not apply if an airport opts out in writing.

Subsections (a) and (c) require comment periods in addition to NEPA. Subsection (a), as indicated above, requires FAA to publish an additional notice requesting comments on reasonable alternatives.

Subsection (c), requires an additional 60–day comment period.

Conference substitute

House bill with Senate Amendment. The Managers intend that the procedures set forth in this section will allow DOT to cut through red tape and eliminate duplication without diminishing existing environmental laws or limiting local input into these critical projects. The Managers believe that the expedited, coordinated environmental review process will ensure that once a community reaches consensus on a critical project, the review process will not unnecessarily delay action. The Department of Transportation is designated as the lead agency for the project review process and the Secretary of Transportation is directed to develop a coordinated review process for major airport capacity projects that will ensure that all environmental reviews by government agencies will be conducted at the same time, whenever possible.

The Managers agreed to combine the streamlined environmental review processes and procedures for airport capacity enhancement projects at congested airports, aviation safety projects, and aviation security projects into one section. Therefore, House bill section 47177 is folded into House bill section 47171. The Managers also adopted the Senate amendment regarding environmental impact statement teams as a way to streamline the environmental review process and achieve a coordinated, expedited environmental review. After proper scoping and public comment processes, the determinations of the Secretary with regard to a proposed project's purpose and need and reasonable alternatives shall be binding on any other Federal or state agency that is participating in a coordinated environmental review process under this section. Participation in a coordinated environmental review process includes the review of environmental analyses, consultation and coordination, and the issuance of environmental opinions, licenses, permits, and approvals.

The Managers recognize that the Department of Transportation and the Federal Aviation Administration have significant expertise and experience on transportation-related matters. Therefore, in conducting environmental reviews within the jurisdiction of the DOT, the Secretary should play a lead role in determining which analytical methods are reasonable for use in determining the transportation impacts and benefits of project alternatives, particularly in the area of noise impacts. Other agencies should give substantial deference to the aviation expertise of the Federal Aviation Administration with respect to determinations of relevant aviation factors including aircraft and airport operations, airport capacity, and future national air space capacity forecasts. Other agencies have expertise in determining the environmental impacts of transportation projects, and the Secretary should rely on the expertise of these agencies in analyzing these impacts. To the maximum extent possible, all Federal and State agencies participating in the coordinated review process should use a common set of data for their analyses in carrying out their responsibilities to conduct environmental reviews under Federal law.

43. CATEGORICAL EXCLUSIONS

House bill

Section 47172, states that not later than 120 days after the date of enactment of this section, the Secretary shall develop and publish a list of categorical exclusions from the requirement that an environmental assessment or an environment impact statement be prepared for projects at airports.

Senate amendment

Requires FAA to report to Senate, within 30 days, on current CATEXs and on proposed additional CATEXs. Directs Secretary to consider other things outside of NEPA, when determining list of proposed CATEXs.

Conference substitute

In lieu of either the House bill or Senate amendment, the Managers agree that the requirement to develop and publish a list of categorical exclusions is unnecessary given that the FAA already published a list of new categorical exclusions as part of their proposed FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures.'' It would therefore be most helpful if the FAA finalized this Order. The Managers have set a 180–day deadline for the FAA to publish their final FAA Order 1050.1E. In addition, with regard to airport projects, the Managers have set a deadline for the FAA to publish, for public comment, the revised FAA Order 5050.4B, ''Airport Environmental Handbook,'' and urge the FAA to finalize this Order as soon as practicable.

44. ACCESS RESTRICTIONS TO EASE CONSTRUCTION—AIR TRAFFIC PROCEDURES

House bill

Section 47173, provides that at the request of a congested airport, the Secretary may approve a restriction on use of a runway to be constructed at the airport to minimize potentially significant adverse noise impacts from the runway only if the Secretary determines that the imposition of the restriction (1) is necessary to mitigate significant noise impacts and expedite construction of the runway; (2) is the most appropriate and cost-effective measure to mitigate those impacts, taking into consideration any environmental tradeoffs; and (3) would not adversely affect service to small communities, adversely affect safety or efficiency of the national airspace system, unjustly discriminate against any class of user of the airport, or impose an undue burden on interstate or foreign commerce.

Senate amendment

Section 47705 is a similar provision for national capacity projects that involve construction of new runway or reconfiguration

of runway. If the Secretary determines consistent with safe and efficient use of airspace, and consistent with applicable Federal law, then commit to such procedure in ROD for project.

Conference substitute

Senate amendment with minor changes to conform to the use of the terms ''airport capacity enhancement projects at congested airports'' in lieu of the term ''national capacity projects.''

45. AIRPORT REVENUE TO PAY FOR MITIGATION

House bill

Section 47174, subsection (a) states, that the Secretary may allow an airport carrying out a capacity enhancement project at a congested airport to make payments out of revenues generated at the airport for measures to mitigate the environmental impacts of the project if the Secretary finds that (1) the mitigation measures are included as part of, or are consistent with, the preferred alternative for the project in the documentation prepared for NEPA; (2) the use of such revenues will provide a significant incentive for, or remove an impediment to, approval of the project by a State or local government; and (3) the cost of the mitigation measures is reasonable in relation to the mitigation that will be achieved.

Subsection (b) describes what the mitigation measures described in Subsection (a) may include.

Senate amendment

No provision.

Conference substitute

No provision.

46. AIRPORT FUNDING OF FAA STAFF

House bill

Section 47175, subsection (a) provides that FAA may accept funds from an airport to hire additional staff or obtain the services of consultants to facilitate the timely processing, review, and completion of environmental documents associated with an airport development project.

Subsection (b) allows the Administrator, with agreement of the airport, to transfer its entitlement funds to the account used by FAA for activities described in subsection (a).

Subsection (c) states that, notwithstanding section 3302 of title 31, any funds accepted under this section, except funds transferred pursuant to subsection (b) shall (1) be credited as offsetting collections to the account that finances the activities and services for which the funds are accepted; (2) be available for expenditure only to pay the costs of activities and services for which the funds are accepted; and (3) remain available until expended.

Subsection (d) provides that no funds may be accepted pursuant to subsection (a), or transferred under subsection (b), ensures that airport or AIP money is utilized only to provide additional funds for environmental staff, not merely replace funds from the FAA's operating account that would have been provided for this purpose in any event.

Senate amendment

Section 47706, similar provision but provides for a pilot program and establishes a process with much more specific requirements. Also, does not allow airports to use AIP for this purpose.

Conference substitute

House bill and Senate Amendment. This program should be a permanent program and airports should be allowed to use AIP entitlement funds to fund environmental staff. However, this provision is designed to ensure that airport or AIP money is utilized only to provide additional funds for environmental staff, and not merely to replace funds in the FAA's operating account that would have been provided for this purpose in any event.

47. AUTHORIZATION FOR ENVIRONMENTAL REVIEWS

House bill

Section 47176, authorizes funds to be appropriated to the Secretary out of the Airport and Airway Trust Fund, in the amount of $4,200,000 for fiscal year 2004 and for each fiscal year thereafter for the timely processing, review and completion of environmental review activities associated with airport capacity enhancement projects at congested airports

Senate amendment

No provision.

Conference substitute

House bill.

48. STREAMLINING OF SAFETY AND SECURITY PROJECTS

House bill

Section 47177, allows, in subsection (a), the Administrator of the Federal Aviation Administration to designate an aviation safety or aviation security project for priority environmental review. The Administrator is not allowed to delegate this designation authority.

Subsection (b) directs the Administrator to establish guidelines for the designation of an aviation safety or aviation security project for priority environmental review. The guidelines must include consideration of, (1) the importance or urgency of the project; (2) the potential for undertaking the environmental review under existing emergency procedures under the National Environmental Policy Act; (3) the need for cooperation and concurrent reviews by other Federal or State agencies; and (4) the prospect for undue delay if the project is not designated for priority review.

Subsection (c) sets forth the procedures for coordinated environmental reviews. Paragraph (1) directs the Administrator, in consultation with the heads of affected agencies, to establish specific timelines for coordinated environmental reviews of an aviation safety or aviation security projects. The timelines shall be consistent with timelines established in existing laws and regulations. Also, this subsection directs each Federal agency with responsibility for project environmental reviews, analyses, opinions, permits, licenses, and approvals to accord any such review a high priority and to conduct the review expeditiously and, to the maximum extent possible, concurrently with other such reviews. Paragraph (2) directs each Federal agency identified under subsection (c) to formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of environmental reviews, in a timely and environmentally responsible manner.

Subsection (d) provides for State participation. Paragraph (1) states that if a priority environmental review process is being implemented with respect to a project within the boundaries of a State with State environmental requirements and approvals, the Administrator must invite the State to participate in the process. Paragraph (2) allows that a State invited to participate in a priority environmental review process, consistent with State law, may choose to participate and may direct that all State agencies, which have jurisdiction to conduct an environmental review or analysis of the project, be subject to the coordinated review process.

Subsection (e) sets forth the procedures for when a Federal agency or participating State fail to give priority review. Paragraph (1) provides that if the Secretary of Transportation determines that a Federal agency or a participating State is not complying with the requirements of this section and that the noncompliance is undermining the environmental review process, the Secretary must notify, within 30 days the head of the Federal agency or, with respect to a State agency, the Governor of the State. Paragraph (2) states that when a Federal agency receives such a notification, the Agency must submit a written report to the Secretary within 30 days explaining the reasons for the situation described in the notification and what remedial actions the agency intends to take. Paragraph (3) states that if the Secretary determines that a Federal agency has not satisfactorily addressed the problems within a reasonable period of time allowed under this subsection, the Secretary shall notify the Council on Environmental Quality, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate. Subparagraph (f) cross-references the procedures set forth in subsections (c), (e), (g), (h), and (i) of section 47171 and directs that they shall apply with respect to an aviation safety or aviation security project under this section in the same manner and to the same extent as such procedures apply to an airport capacity enhancement project at a congested airport under section 47171.

Subsection (g) provides a list of definitions of terms used in the section. Section 47178, provides a list of definitions of terms used in the subchapter, including terms ''congested airport'' and ''Airport Capacity Enhancement Project.''

Senate amendment

Section 47707, provides definition of National Capacity Project.

Conference substitute

House bill. The Managers combined House bill section 47177, which includes the procedures for an expedited, coordinated environmental review process for aviation safety and aviation security projects, with House bill section 47171, the procedures for airport capacity enhancement projects at congested airports. The Managers believe that environmental reviews for these types of projects should be streamlined in the same way that airport capacity enhancement projects at congested airports are streamlined. Therefore, all processes and procedures applicable to airport capacity enhancement projects at congested airports apply to designated aviation safety or aviation security projects. The Managers adopted the House bill definitions of terms in both Sections 47177(g) and 47178.

49. GOVERNOR'S CERTIFICATE

House bill

Repeals the requirement in section 47106(c)(1)(B) that the Governor of the state in which the project is located certifies in writing to the Secretary that there is reasonable assurance that the project will be in compliance with applicable air and water quality standards.

Senate amendment

Same as House bill except the Senate strikes ''(1)(c)'' in newly designated 47106(c)(4) and inserts ''(1)(B)'', and does not strike ''Stage 2'' and insert ''Stage 3'' in 7106(c)(2)(A).

Conference substitute

Senate amendment with minor technical changes to reflect revisions contained in House bill. Conference substitute repeals the governor's certificate requirement regarding compliance with applicable air and water quality standards.

50. NOISE MITIGATION NEAR A CONGESTED AIRPORT

House bill

Authorizes the issuance of a grant to an airport operator of a congested airport and a unit of local government to carry out a project to mitigate noise in the area surrounding the airport if the project is included as a commitment in a record of decision of the FAA for an airport capacity enhancement project.

Senate amendment

No provision.

Conference substitute

House bill.

51. STREAMLINING LIMITATIONS AND RELATIONSHIP TO OTHER REQUIREMENTS

House bill

Section 207 states that nothing in the Act shall preempt or interfere with any practice of seeking public comment; any power, jurisdiction, or authority that a state agency or an airport sponsor has with respect to carrying out an airport capacity enhancement project; and any obligation under the National Environmental Policy Act and Council on Environmental Quality regulations.

Section 208 provides that the coordinated review process required under this Title for airport capacity enhancement projects at congested airports shall apply whether or not the project is a high-priority transportation infrastructure project under Executive Order 13274.

Senate amendment

No provision.

Conference substitute

House bill.

52. ILLINOIS

House bill

No provision.

Senate amendment

Makes clear that nothing in Title II of the Senate amendment precludes the application of this Act to Illinois or preempts the Illinois Governor from approving or disapproving an airport project.

Conference substitute

Senate amendment.

53. MANAGEMENT ADVISORY COMMITTEE MEMBERS

House bill

This section reduces the FAA's Management Advisory Council (MAC) to 13 members to reflect the removal the Air Traffic Services Subcommittee from the MAC. The DOT Secretary rather than the President would fill any remaining vacancies in the MAC.

Senate amendment

Similar provision.

Conference substitute

House bill, but name changed to Management Advisory Committee.

54. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE

House bill

Establishes the Air Traffic Services Board and moves the members of the Air Traffic Services Subcommittee to this new Board. The FAA Administrator would be the Chairman of this Board. Members are appointed by the President and confirmed by the Senate. Compensation of the Board Members is eliminated. Board makes recommendations on the FAA budget rather than approve it.

Senate amendment

Similar provision but it is called a Committee rather than a Board and members are appointed by the Secretary. Retains $25,000 compensation for members. Continues to require approval of FAA budget. Requires President to submit FAA budget request to Congress without revision.

Conference substitute

House bill and Senate amendment, but without the provision on the budget. The new organization is a committee.

55. CLARIFICATION OF THE RESPONSIBILITIES OF THE CHIEF OPERATING OFFICER

House bill

Revises the functions of the FAA's Chief Operating Officer (COO) to more closely reflect the duties of such a position. The current statutory functions have been criticized for being more appropriate for a CEO than a COO. The COO is given the added responsibility of developing a comprehensive plan with specific performance goals for managing cost-reimbursable contracts as called for in the report of the Inspector General (Report F1–2202–092, May 8, 2002).

Senate amendment

Similar, except there is no provision on cost-reimbursable contracts.

Conference substitute

House bill.

56. SECTION WHISTLEBLOWER PROTECTION

House bill

No provision.

Senate amendment

Provides whistleblower protection for employees of FAA contractors.

Conference substitute

Senate amendment.

57. SMALL BUSINESS OMBUDSMAN

House bill

This section establishes the position of small business ombudsman within FAA to serve as a liaison with small business and provide assistance to those businesses.

Senate amendment

No provision.

Conference substitute

No provision.

58. FAA PURCHASE CARDS

House bill

This section requires FAA to take appropriate actions to implement General Accounting Office recommendations made in a report (GAO–03–405, March 2003) that uncovered abuses of FAA purchase cards. Similar concerns had been raised earlier about practices in Alaska (GAO–02–606, May 2002).

Senate amendment

No provision.

Conference substitute

House bill.

59. IMPROVEMENT OF AVIATION INFORMATION COLLECTION

House bill

This section would repeal the prohibition on collecting information by specific flight effective on the date of issuance of a final rule that reduces the reporting burden for air carriers through electronic filing of the Origin & Destination Survey data.

Senate amendment

No provision.

Conference substitute

House bill with additional language to ensure that data cannot be used for anti-competitive purposes. The additional language requires that, if the Secretary requires air carriers to provide flight-specific information, (1) the Secretary shall not disseminate fare information for a specific flight to the general public for a period of at least nine months following the date of the flight; and (2) shall give due consideration to and address confidentiality concerns of carriers, including competitive implications, in any rulemaking prior to adoption of a rule requiring the dissemination to the general public of any flight-specific fare.

60. DATA ON INCIDENTS AND COMPLAINTS INVOLVING PASSENGER AND BAGGAGE SECURITY SCREENING

House bill

This section requires DOT to publish passenger complaints about screening problems in the same way that it publishes complaints about delays, lost baggage, etc.

Senate amendment

No provision.

Conference substitute

House bill.

61. DEFINITIONS

House bill

This section places the various definitions of ''hub'' in one place in Title 49 rather than scattered throughout the code as they are now. This section includes the various hub definitions in Chapter 471 of title 49. Also defines ''amount made available'' and ''passenger boardings''.

Senate amendment

Adds definitions of ''amount newly made available'' and ''amount subject to apportionment'' in chapter 471. Makes necessary conforming changes. Subsection (b) revises when AIP grants may be made.

Conference substitute

House bill and Senate amendment.

62. CLARIFICATIONS TO PROCUREMENT AUTHORITY

House bill

Subsection (a) deletes paragraph (c)(1) and (c)(2)(D) that no longer apply to the FAA as a result of the procurement reform contained in section 40110(d) of title 49.

Subsection (b) deletes the reference to the deadline for implementing procurement reform and allows bid protests to be resolved by alternate dispute resolution techniques.

Subsection (c) adds the procurement of ''services'' to the list of actions to which the FAA's procurement system applies.

Senate amendment

Subsection (a) is the same provision but it also deletes paragraphs (2)(C) and (E) that require authorization from GSA and limit sole source contracts.

Also deletes the reference to the deadline for implementing procurement reform. Subsection (b) is the same as subsection (c) of the House bill.

Conference substitute

House bill and Senate amendment with additional language at the end of new paragraph (d)(4) stating ''and shall be subject to judicial review under section 46110 of this title, and to the provisions of the Equal Access to Justice Act (5 U.S.C. 504).''

63. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT UNDER THE PFC PROGRAM

House bill

Subsection (a) allows passenger facility charge (PFC) revenue to be used to purchase low-emission vehicles or to convert existing equipment.

Subsection (b) makes clear that PFC revenue can be used only to pay the difference in cost between the low-emission vehicle and a regular vehicle. PFCs can also be used to pay the cost of converting an existing vehicle to a low emission vehicle.

Subsection (c) defines the type of equipment that is eligible.

Senate amendment

Similar provision, but adds requirement that DOT, in consultation with EPA, shall issue guidance.

Conference substitute

House bill and Senate amendment. The Managers adopted the House provision with the Senate requirement that the EPA, in consultation with DOT, shall issue guidance.

64. STREAMLINING OF THE PASSENGER FACILITY FEE PROGRAM

House bill

Subsection (a) is designed to streamline the PFC approval process by requiring that notice and comment is provided before the airport submits its PFC application to FAA and all the certifications are included in that application. The subsection also states that an airport is required to consult with only those airlines operating there that provide scheduled air service or major charter operations.

Subsection (b) provides a 3–year test of expedited procedures for approval of PFC applications at small airports. Such an airport that notifies FAA of its intention to impose a PFC shall be allowed to do so unless FAA objects within 30 days of receiving the notice.

Senate amendment

This is the same provision with some different wording. Also eliminates the requirement that large airports seeking a PFC of more than $3 show that the project will make a significant contribution to safety, security, increased competition, or reducing congestion or noise.

Conference substitute

House bill.

65. PFCs AND MILITARY CHARTERS

House bill

Makes clear that passengers on a military charter are not required to pay a PFC since payment for the flight is made by the Department of Defense rather than by the individual passengers.

Makes technical amendments.

Senate amendment

Subsection (g) of section 507 is the same provision.

Conference substitute

House bill and Senate amendment.

66. USING PFC REVENUE FOR GROUND ACCESS PROJECTS

House bill

Requires FAA to publish in 60 days its current policy for allowing PFCs to be used to pay for ground access projects.

Senate amendment

No provision.

Conference substitute

House bill but add ''consistent with current law.''

67. FINANCIAL MANAGEMENT OF PASSENGER FACILITY FEES

House bill

This section requires airlines to place PFC revenue that they collect in a separate account so that the airport for which the PFC was collected will be assured of receiving its money should the airline go out of business during the interim period between the time that the PFC was collected and the time it is remitted to the airport.

Senate amendment

No provision.

Conference substitute

Section 124. House bill, but limited to air carriers filing for bankruptcy after the date of enactment. These air carriers would only have to segregate PFC money, and would not be required to put that money in an escrow account. This provision is in addition to the requirements already in 49 U.S.C. 40117(g)(4).

68. MAJOR RUNWAY PROJECTS

House bill

No provision.

Senate amendment

Requires quarterly reports on the status of major runway projects undertaken at 40 largest airports.

Conference substitute

No provision.

69. NOISE DISCLOSURE TO HOME BUYERS

House bill

No provision.

Senate amendment

Requires FAA to study the feasibility of developing a program to notify homebuyers of information on noise disclosure maps. Requires FAA to make noise exposure maps available on its Web site.

Conference substitute

Senate amendment. One change was made requiring the Federal Aviation Administration to make noise exposure and land use information from noise exposure maps available to the public via the Internet on its Web site in an appropriate format. The approach was adopted instead of requiring the FAA to publish noise exposure maps on the FAA's Web site alone. It is very important that potential homebuyers should be notified of the likelihood that they would be exposed to aircraft noise.

70. CLARIFICATION OF FLY AMERICA ACT

House bill

Makes clear that the term ''commercial item'' does not include the transportation of people by air. Such transportation must be on U.S. airlines to the extent required by the other provisions of 49 U.S.C. 40118.

Makes clear that a person that has contracted with the military has the same obligation under 49 U.S.C. 41106 to employ U.S. airlines for airlift services as the military.

Senate amendment

No provision.

Conference substitute

The Substitute includes only the House provision that the term ''commercial item'' does not include the transportation of people by air. Such transportation must be on U.S. airlines to the extent required by the other provisions of 49 U.S.C. 40118.

71. AIRLINE CITIZENSHIP

House bill

No provision.

Senate amendment

To qualify as a U.S. airline, it must be under the actual control of citizens of the U.S.

Conference substitute

Senate amendment.

72. AIR CARGO IN ALASKA

House bill

No provision.

Senate amendment

Permits cargo to or from a foreign country to be transferred to another airline in Alaska without being considered to have broken its international journey.

Conference substitute

Senate amendment. This subsection does not apply to transportation of passengers and does not permit the Secretary to authorize a foreign air carrier either to take on for compensation at a place in the United States cargo having both first origin and ultimate destination in the United States, or to engage in service that contravenes any bilateral or multilateral agreement between the United States and any foreign state. Alaska's geographic location and distance from the contiguous 48 States creates special needs, challenges and opportunities. Alaska has a unique geographic location as a technical and refueling stop for all cargo services between Asia, on the one hand, and Europe and North America on the other. A ''term arrangement'' is a cargo relationship between air carrier(s) and foreign air carrier(s) on an ongoing basis, including, for example, preferential rates or joint marketing up to and including a full cargo alliance.

73. OVERFLIGHTS OF NATIONAL PARKS

House bill

States that the requirements and restrictions governing commercial air tour operations, as defined in the Air Tour Management Act of 2000, of national parks apply only to those flights that are over the park, or over an area within 1/2 mile outside the boundary of a national park, and not to those flights that may be near the park, even if they have some impact on the park.

Overrules an FAA regulation that establishes specific times that are considered daylight hours and instead uses the more common approach of defining daylight as the hours between 1 hour after sunrise and 1 hour before sunset.

Senate amendment

No provision.

Conference substitute

Adopts only House bill, subsection (a) regarding the application of the Air Tour Management Act of 2000. The Managers also agreed to add a provision regarding the utilization of quiet technology at Grand Canyon National Park and establish a mediation process if necessary.

The Managers are greatly disappointed with the lack of progress that has been made by the National Park Service (NPS) and the Federal Aviation Administration (FAA) with regard to managing air tour noise impacts in national parks. It is our understanding that the two agencies have not been able to reach agreement on how to set noise standards for national parks, how to measure and model noise impacts in national parks, and how to appropriately regulate air tours over national parks.

In no less than eight places in the Air Tour Management Act of 2000 (ATMA), Congress used the words ''in cooperation'' to describe how the FAA and NPS should work together to develop air tour management plans (ATMPs) for national parks. Congress' intent is clear. The agencies should work collaboratively, cooperatively and in coordination with one another. Neither is in the position to dictate an approach. The Managers expect the two agencies to come to an agreement on a common approach to develop ATMP's, as well as to determine environmental impacts in national parks, including noise impacts. The approach and procedures should be developed expeditiously and in a coordinated and collaborative fashion.

Finally, it is our understanding that the National Park Service has not sought funding authorization or appropriation for the ATMP process. Both agencies should be funding this effort.

74. DELAY REDUCTION MEETINGS

House bill

No provision.

Senate amendment

DOT may ask U.S. airlines to meet with FAA to discuss flight reductions at severely congested airports to reduce over scheduling and flight delays during peak hours if FAA and DOT determine it is necessary. Meetings shall be chaired by FAA, open to all scheduled U.S. airlines, and limited to the airports and time period determined by FAA. FAA shall set flight reduction targets for the meeting. Airlines shall make flight reduction offers to FAA rather than to other airlines. Transcripts of the meetings shall be

made available. Includes an additional provision dealing with delays caused by stormy weather.

Conference substitute

Senate amendment without the ''Stormy Weather'' provisions which are covered by the collaborative decision making pilot program described below.

75. COLLABORATIVE DECISION MAKING PILOT PROGRAM

House bill

Requires a pilot program to be established within 90 days that would authorize airlines to discuss changes in flight schedules in the event of a capacity reduction event.

States that the pilot program will last for 2 years after it is established.

Subsection (c) directs FAA to issue guidelines for the program that, at least, define when a capacity reduction event exists that would warrant the use of collaborative decision making among airlines.

States that when the FAA determines that a capacity reduction event exists at an airport, it may permit airlines to meet and discuss their schedules for up to 24 hours in order to use the available air traffic capacity most effectively. The FAA shall monitor these discussions.

Directs the FAA to choose 3 airports to participate in the program within 30 days after establishing the program. The airports chosen should be those with the most delays where collaborative decision-making could help reduce delays there and throughout the nation.

States which airlines are eligible to participate.

Permits the FAA to modify or cancel the program or prevent an airline from participating if it finds that the purposes of the program are not being furthered or there is an adverse impact on competition.

Requires FAA and DOT to evaluate the impact of the pilot program on the use of air traffic capacity, competition, the amount of air service to communities, and the impact of delays at other airports. Subsection (i) allows the program to be extended for an additional 2 years and expanded to 7 more airports if warranted by the evaluation in subsection (h).

Senate amendment

Requires a program to be established to authorize airlines to discuss changes in schedules in the event of bad weather.

Within 30 days of enactment, DOT shall establish procedures governing airline requests for authorization, participation by DOT, and the determination by FAA about the impact of bad weather.

When FAA determines that bad weather is likely to adversely and directly affect capacity at an airport for at least 3 hours, airlines may discuss flights directly affected by the bad weather for up to 24 hours. DOT shall be represented at the meetings.

Allows DOT to exempt airlines from the antitrust laws in order to participate in the discussions.

This provision expires 2 years and 45 days after enactment but may be extended for another 2 years. DOT shall notify Congress of any such extension.

Conference substitute

House bill but reduced the number of initial participating airports from 3 to 2. The substitute also includes requirements that the Attorney General concur with certain actions and determinations of the Secretary of DOT. The Attorney General may monitor the communications between air carriers operating at a participating airport. Also includes the authority to grant antitrust immunity. The substitute directs the FAA to define and establish limited criteria for a ''capacity reduction event''. The FAA should work closely with the Department of Justice and the Department of Transportation.

76. COMPETITION AND ACCESS

House bill

No provision.

Senate amendment

Directs DOT to study and report within 6 months on competition, access problems, gate usage, pricing and availability at large airports.

Conference substitute

No provision.

77. COMPETITION DISCLOSURE

House bill

No provision.

Senate amendment

Requires large airports to file a report with DOT within 30 days of denying an airline a gate or other facilities. Report shall provide reason for the denial and time frame for granting the request.

Conference substitute

Instead of requiring a report from an airport each time it is unable to accommodate an airline request for gates, the conference substitute requires an airport to file a report with DOT during each 6 month period that it was unable to accommodate a request for gates. The airport could aggregate several incidents into one report. This provision sunsets in 5 years.

78. AVAILIBILITY OF AIRCRAFT ACCIDENT SITE INFORMATION

House bill

This section adds two provisions to the family assistance plans that airlines are required to follow in the event of a plane crash. The first requires information to homeowners whose houses are damaged about liability and compensation. Typically, this information should direct homeowners to their insurance companies to obtain information on compensation for damages. The second requires the airline to provide closed circuit television or a similar method for families to view NTSB proceedings concerning the accident. This would apply only if the NTSB proceedings were more than 80 miles from the accident site. In such cases, the proceedings would have to be able to be viewed in the cities where the flight originated and where it was scheduled to land. This applies only to cities in the United States.

Senate amendment

No provision.

Conference substitute

House bill.

79. SLOT EXEMPTIONS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

House bill

Increases the number of slot exemptions to be granted outside the 1,250–mile perimeter from 12 to 24. Increases the number of slot exemptions to be granted inside the perimeter from 12 to 20.

Accommodates the above additional exemptions by increasing the number that can be granted during each one-hour period from 2 to 3. It also distributes the 20 inside-the-perimeter exemptions as follows—6 for air service from Reagan National to small airports without regard to the new entrant criteria, 10 to medium size or smaller airports, and 4 to any airport. Directs DOT to establish procedures for the grant of these slot exemptions.

Senate amendment

No provision.

Conference substitute

House bill. In order to enhance competition, DOT is encouraged to, among others, consider the competitive importance of service to cities that can serve as gateways to additional western states that currently have only limited service to Reagan National Airport. This language is not intended to favor or prejudice an application from a carrier under this section.

80. PERIMETER RULES

House bill

Requires DOT to study the impact of locally imposed perimeter rules on competition and air service to communities outside that perimeter.

Senate amendment

No provision.

Conference substitute

No provision.

81. COMMUTER AIRCRAFT DEFINITION

House bill

Changes the definition of commuter to allow up to 76 seat regional jets to use commuter slots at Reagan National Airport.

Senate amendment

No provision.

Conference substitute

House bill.

82. NOTICE CONCERNING AIRCRAFT WHERE AN AIRCRAFT IS ASSEMBLED

House bill

This section requires, within 1 year, U.S. airlines to include on the placard in the seat back pocket a notice informing the passenger of where the aircraft was built.

Senate amendment

No provision.

Conference substitute

House bill, but airlines have 18 months to include on the placard in the seat back pocket a notice informing the passenger of where the aircraft was finally assembled.

83. SPECIAL RULE TO PROMOTE AIR SERVICE TO SMALL COMMUNITIES

House bill

In order to promote air service to small communities, this section directs FAA to permit small turbine powered or multi-engine aircraft to carry passengers between a small airport and another airport and to accept payment from those passengers if the aircraft is otherwise operated in accordance with FAA rules in Parts 119 and 135 and DOT rules in Part 298 of 14 CFR.

Senate amendment

No provision.

Conference substitute

No provision.

84. ESSENTIAL AIR SERVICE (EAS) MARKETING

House bill

Allows the portion of the essential air service (EAS) subsidy paid to an airline to promote its service to be paid to the community instead so that the community can promote that service.

Senate amendment

Airports may receive up to $50,000 for a marketing plan to increase usage at an EAS community. A local share, not including federal sources but including bond proceeds or in-kind contributions, is required unless passenger usage increases by a specified amount. Authorizes $50,000 to a State with an EAS community to assist the State in developing methods to increase passengers at the community. A 10% local share, including in-kind contributions, is required.

$12 million per year for 3 years is authorized for this program of which $200,000 may be used for administrative costs.

Conference substitute

Senate amendment.

85. EAS SUBSIDY ADJUSTMENT

House bill

Allows adjustments to a carrier's subsidy rate at any time if average monthly costs have increased by 10% or more without regard to requirements relating to renegotiation or termination notice.

Senate amendment

Allows adjustments to a carrier's subsidy rate within 30 days of enactment if average annual unit costs have increased by 10% or more without regard to renegotiation requirements.

Conference substitute

House bill section 415 (a)(3), but does not go into effect until 30 days after enactment. Senate amendment definition of ''significantly increased costs,'' with revisions to clarify calculation. Includes a new provision authorizing the Secretary to reverse the upward adjustment in the subsidy rate if costs subsequently decline. It is the Managers' intent that the authority provided in this section be used to cover an industry-wide cost increase, such as increased fuel or insurance costs, and not one unique to a particular carrier.

86. RETURNED EAS FUNDS

House bill

No provision.

Senate amendment

Any EAS subsidy returned to DOT by an airport shall remain available to DOT and used to increase flights to that airport.

Conference substitute

No provision.

87. EAS AUTHORIZATION

House bill

Authorizes $65 million, in addition to the $50 million already required to be provided, for the EAS program and for the alternative program established by subsection (f) below. It also authorizes the hiring of additional employees in DOT to manage the program.

Senate amendment

Authorizes $113 million including the $50 million already required.

Conference substitute

Section 404. House bill, with an additional authorization for marketing from the Senate bill. Section 408 authorizes DOT to designate 10 communities within 100 miles of a hub to pay a 10% local share. Only one could be designated per State. Before being designated under this section, communities should first be given an opportunity to participate in the alternative program established by section 405 as that could lead to both better service for the community and lower subsidy costs.

88. SUBSIDY TERMINATION

House bill

Requires DOT to give a community 90 days notice before it discontinues subsidies to a community as a result of that community's failure to meet mileage or per passenger subsidy targets established in Appropriations Acts.

Senate amendment

Notwithstanding the subsidy per passenger limitation in the 2000 appropriations act, DOT may not terminate a subsidy to a community before the end of 2004, if 2000 ridership at the community was sufficient and it received notice in 2003 that its ridership is no longer sufficient.

Conference substitute

No provision.

89. RESUMING SERVICE AT FORMER EAS COMMUNITIES

House bill

Allows an airline to begin service after the date of enactment to a community that has been eliminated from the EAS program without being subject to the hold-in requirements of that program if it should decide to terminate service to that community.

Senate amendment

No provision.

Conference substitute

House bill. The purpose of this provision is to remove a requirement that might prove to be a disincentive to a carrier resuming service to a community without any service.

90. JOINT FARES

House bill

Directs DOT to encourage the submission of joint fare proposals to benefit service to small communities.

Senate amendment

No provision.

Conference substitute

House bill.

91. ALTERNATIVE EAS

House bill

Establishes an alternative to the EAS program. Under this alternative, rather than receiving service from an airline subsidized by DOT, the community could receive a grant from DOT to establish and pay for its own service. This could include scheduled air service, air taxi service, fractional ownership where passengers pay for the service, surface transportation, or some other approach approved by DOT. Communities choosing to participate in this alternative program could not receive service under the established EAS program in the fiscal year in which they participated in the alternate program.

Senate amendment

If money authorized for the marketing program is fully appropriated, DOT shall establish a pilot program for no more than 10 communities under which the airport may forgo EAS subsidies for 10 years in exchange for a grant of double the EAS subsidy for airport development. DOT may require major airlines serving one of these 10 communities to participate in multiple code shares if that would improve air service.

DOT shall establish a pilot program for no more than 10 communities to authorize more flights with smaller aircraft if safety will not be compromised. For 3 of these airports, DOT may establish a pilot program where the subsidy pays for alternate transportation and improvement to airport facilities if the airport agrees to terminate its participation in this program pilot program after 1 year.

DOT may establish a pilot program where airports share the cost of providing service over and above the required essential air service.

Conference substitute

Section 405. Substitute is House section 415 (g), with alternatives and pilot programs in the Senate bill. The fractional ownership provision cannot be used until the FAA rule on fractional ownership takes effect. There is no provision for a local cost share for those communities participating in one of the alternatives or pilot programs authorized by this section.

92. TRACKING EAS SERVICE CHANGES

House bill

No provision.

Senate amendment

Requires semi-annual report from airlines providing EAS on on-time performance and other service changes.

Conference substitute

Senate amendment with revisions.

93. MILEAGE REQUIREMENTS FOR EAS PROGRAM

House bill

Establishes mileage requirements for participation in the EAS program and directs DOT to calculate the mileage by the most commonly used route. DOT should consult with the Governor in determining the most commonly used route. Any community previously eliminated from the EAS program by the distance criteria may appeal that decision to DOT in light of the changes made by this subsection.

Senate amendment

Similar provision but the method for determining mileage applies only to Lancaster, PA while the appeal rights apply to any community.

Conference substitute

House bill but limited to only 2 years prior to date of enactment and order to be issued is limited to 2007.

94. SMALL COMMUNITY OMBUDSMAN

House bill

No provision.

Senate amendment

Establishes ombudsman in DOT to develop strategies for improving air service to small communities.

Conference substitute

No provision.

95. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE

House bill

No provision.

Senate amendment

Establishes 9-member Commission to study challenges facing small communities and whether existing Federal programs are helping.

Conference substitute

Senate amendment.

96. REFUNDED SECURITY FEES

House bill

No provision.

Senate amendment

Requires flag airlines, within 30 days, to remit to their code share partners any security fees that they paid but that were refunded to the flag airline. IG reviews compliance. Airline CEO certifies compliance.

Conference substitute

No provision.

97. TYPE CERTIFICATES

House bill

Requires anyone building a new aircraft based on a type certificate to have the permission of the holder of that type certificate.

Senate amendment

No provision.

Conference substitute

House bill.

98. CERTIFICATION OF FOREIGN AVIATION PRODUCTS

House bill

Requires the FAA to spend the same amount of time and perform a similarly thorough review when certifying or validating a foreign aviation product as the foreign nation spends in certifying or validating U.S. aviation products.

Senate amendment

No provision.

Conference substitute

The House bill is revised to direct U.S. negotiators to ensure that American products are treated fairly in the certification process.

99. INTERNATIONAL ROLE OF FAA

House bill

No provision.

Senate amendment

Amends section 40101(d) by requiring FAA to exercise leadership with foreign counterparts, in ICAO, and other organizations to

promote safety, efficiency, and environmental improvements in air travel.

Conference substitute

Senate amendment.

100. REPORT ON OTHER NATIONS' ADVANCEMENTS

House bill

No provision.

Senate amendment

FAA shall review other countries' aviation safety, research funding, and technological actions and report with recommendations on how those activities might be used in the U.S.

Conference substitute

No provision, however the report requirement in the Senate amendment is included in section 819 of the bill.

101. DESIGN ORGANIZATION CERTIFICATES

House bill

This section directs FAA to develop, within 4 years, a plan for certification of design organizations and allows the FAA to implement within 7 years a system for certifying design organizations if it so chooses.

Senate amendment

Similar provision but plan is to be submitted in 3 years and implemented in 5 years. Nothing in this section prevents FAA from revoking a certificate. Makes conforming change to subsection on type certificates.

Conference substitute

House timelines with Senate provision on FAA authority to revoke certificates. Replace (f)(3) from House bill with ''The FAA may rely on certifications of compliance by a Design Organization when making a finding under subsection (a).''

102. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS

House bill

This section would direct the FAA to deny a certificate to a person whose certificate was previously revoked for involvement in an activity relating to counterfeit or fraudulent aviation parts.

Senate amendment

Same provision, but would also deny a certificate to a person who carried out an activity related to counterfeit or fraudulent aviation parts for which he could have been convicted.

Conference substitute

House bill.

103. RUNWAY SAFETY AREAS

House bill

Section 419 states that an airport shall not be required to reduce the length of a runway or declare the length of the runway to be less than the actual pavement length in order to meet FAA requirements for runway safety areas.

Section 505 requires airports to undertake, to the maximum extent practical, improvements to the runway safety overrun area to meet FAA standards when they receive grants to construct, reconstruct, repair, or improve that runway. This does not require that airport to build a shorter runway, reduce the length of that runway or similar actions that are prohibited by section 419 of this bill.

Senate amendment

No provision.

Conference substitute

House bill. The substitute limits this provision to airports located in the State of Alaska, as that is apparently where the FAA's actions with regard to runway safety areas have become a problem. The Managers also agreed to require the DOT to conduct a study and submit a report on this issue for airports located in the remaining states.

104. AVAILABILITY OF MAINTENANCE INFORMATION

House bill

Requires manufacturers of aircraft and aircraft parts to provide maintenance manuals at a reasonable cost to repair stations that are authorized to work on those aircraft or aircraft parts.

Senate amendment

No provision.

Conference substitute

No provision.

105. CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT

House bill

Requires FAA to revoke a pilot's certificate if the Department of Homeland Security notifies the FAA that the pilot is a security risk.

Gives a pilot who is a U.S. citizen the right to a hearing before an administrative law judge (ALJ). Others have the right to the appeal procedures that the Transportation Security Administration (TSA) has already provided for them.

States that the ALJ is not bound by the FAA's or TSA's findings of fact or law. Allows either party to appeal an ALJ decision to a special panel created by the Transportation Security Oversight Board.

Allows either party to appeal the panel's decision to the U.S. Court of Appeals. Requires TSA to give a person appealing under this section an explanation of the reason for the revocation and all supporting documents to the extent that national security permits.

Sets forth the procedures for handling classified evidence This section makes clears that appeals under Subtitle VII of title 49 are handled by the Federal Court of Appeals rather than the District Court.

Contains a conforming amendment.

Senate amendment

No provision.

Conference substitute

House bill with technical clarifications to address how FAA, TSA, DHS, CIA, and the parties shall handle classified information in the hearing and appeal processes.

106. JUDICIAL REVIEW

House bill

Amends 46110(a) by striking ''part'' and inserting ''subtitle'' in the first sentence. Judicial review of TSA actions is covered by section 1710 of H.R. 2144.

Senate amendment

References 46110(c) instead of 46110(a). Uses Administration's proposed language, including sections for TSA.

Conference substitute

Amends section 46110(a) of Title 49, United States Code to clarify that the judicial review procedures set forth in section 46110 apply to persons disclosing a substantial interest in orders issued by the Secretary of Transportation in whole or in part under part A and under part B of Subtitle VII of Chapter 49 of the U.S. Code. The intent is to clarify that decisions to take actions authorizing airport development projects are reviewable in the circuit courts of appeals under section 46110, notwithstanding the nature of the petitioner's objections to the decision. In addition, the Committee believes that FAA orders pertaining to airport compliance are exclusively reviewable in the circuit courts of appeals, like other orders issued under similar provisions in part B of subtitle VII of title 49. The Committee notes that the amendment to section 46110 would resolve the jurisdictional issue raised in *City of Alameda* v. *FAA*, 285 F.3d 1143 (9th Cir. 2002). The Managers agreed to strike ''part'' and insert ''Subparts A and B'' and strike the reference to ''safety'' in order to clarify that the provision is not limited to safety orders of the FAA. Similar changes are made with respect to the Transportation Security Administration.

107. CIVIL PENALTIES

House bill

No provision.

Senate amendment

Sets all civil penalties at $25,000. Increases the limit for the administrative imposition of civil penalties to $1 million.

Conference substitute

Senate amendment on civil penalties with an exemption for individuals and small businesses. They will not be subject to the penalty increase but will be subject to the penalty they were subject to prior to the enactment of this Act. Also, sets the limit for the administrative imposition of civil penalties at $400,000.

108. FLIGHT ATTENDANT CERTIFICATION

House bill

Prohibits a person from serving as a flight attendant on an aircraft of a U.S. airline unless that person holds a certificate from the FAA. That person must present that certificate, upon request, to an authorized Federal official within a reasonable time. People currently serving as flight attendants can continue to do so pending their certification. After the airline notifies the FAA that a person has met the qualifications for certification, that person may serve as a flight attendant even if that person does not have the certificate in hand. Requires the FAA to issue a certificate to a person after the airline notifies the FAA that the person has completed all FAA approved training. Designates the appropriate airline official to determine whether a person has successfully completed the training. Requires the certificate to be numbered and recorded by the FAA, contain the name, address, and description of the flight attendant, contain the name of the airline that the flight attendant works for, be similar to airmen certificates, contain the airplane group (jet or prop) for which the certificate is issued, and be issued by the FAA within 30 days of notification by the airline or within 1 year of the effective date of this section. Subsection (e) states that all flight attendant training programs, other than those involving security, are subject to FAA approval. Training programs approved within one year prior to the date of enactment may be used as the basis for certifying flight attendants. Defines ''flight attendant''. This section takes effect one year after the date of enactment.

Senate amendment

Requires FAA to establish standards for flight attendant training. FAA shall require flight attendants to complete training courses approved by FAA and TSA. FAA shall issue a certificate to each person that completes the course. Has a similar requirement for the certificate. Similar definition of ''flight attendant''.

Conference substitute

House bill, however the substitute allows the Administrator 120 days to issue the certificate after receiving notification from the air carrier.

109. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE

House bill

Requires the government agency that owns or controls an airport to provide 30 days notice before that airport is closed. Imposes a

$10,000 penalty for each day that the airport remains closed without having given the proper notice.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment. This provision applies only to airport closures that are permanent, not to temporary closures for emergency or operational reasons.

110. NOISE EXPOSURE MAPS

House bill

This section replaces an obsolete date reference and directs airports to update their noise exposure maps if there is a change in the operations at the airport that would lead to a significant increase or decrease in noise.

Senate amendment

Similar provision with exception that does not direct airports to update their noise exposure maps if there is a change in the operations at the airport that would lead to a significant increase or decrease in noise.

Conference substitute

House bill.

111. OVERFLIGHT FEES

House bill

This section makes clear that the changes to the method for calculating overflight fees in the Aviation and Transportation Security Act were not nullified by the savings provision in that Act.

Senate amendment

The provision has a similar goal but accomplishes it differently.

Conference substitute

Ratifies the interim final rule and final rule issued by the FAA on May 30, 2000, and August 13, 2001, respectively. This ratification applies to fees collected after the date of enactment of the Aviation and Transportation Security Act (ATSA) and before the court decision striking down those fees. It also applies to the fees that FAA collects in the future after it undertakes the actions required by this provision. Fees collected after the ATSA fix and before the court decision could be retained by FAA. The FAA may not resume collecting fees until after the Administrator reports to Congress in response to the issues raised in the April 8, 2003 court decision; and after the FAA consults with users and other interested parties to ensure the fees established are consistent with the international obligations of the United States. The Managers intend that consultations before the date of enactment shall satisfy this requirement.

In 1996, Congress directed the FAA Administrator to set and collect fees for the provision of air traffic control and related services for flights that fly over but do not land in the United States. This was done to recover a portion of the costs of these services from those who receive the benefit of the services but who would otherwise pay nothing. Although the FAA Administrator has diligently proceeded to recover such costs through the imposition of overflight fees, a group of foreign airlines has challenged the fees in the United States Court of Appeals for the District of Columbia Circuit.

On April 8, 2003, when the United States Court of Appeals for the District of Columbia Circuit issued an opinion in the case of *Air Transport Association of Canada et al* v. *FAA*, No. 01–1446, setting aside and remanding to the FAA the Final Rule issued on August 13, 2001 under Section 45301 (b) (1) (B) because the Court concluded that, as a result of the generic savings provision set forth in Section 141 of the ATSA, Section 119(d) of ATSA did not apply to this Final Rule since it was the subject of the foreign air carriers' pending challenge at the time the ATSA was enacted. It was never the intention of Congress that the savings provision set forth in Section 141 was to have this effect, and this amendment clarifies that fact by retroactively applying Section 119(d) to both the Interim Final Rule issued on May 30, 2000 as well as the Final Rule issued on August 13, 2001.

Also, to clarify that the FAA has complied with its statutory mandate regarding overflight fees in the Interim Final Rule and Final Rule and to ensure the fees can be collected in the future, the language and authority approved by the Court of Appeals for the District of Columbia Circuit in *Thomas* v. *Network Solutions, Inc.*, 176 F. 3d 500 (D. C. Cir 1999) is adopted hereto retroactively, as well as prospectively, to legalize and ratify both the Interim Final Rule and the Final Rule, effective as of the dates those rules were originally issued by the FAA.

Although the Court of Appeals has never found a violation of international law in the overflight fee rulemakings, there have been complaints that international law has not been complied with by the FAA. To ensure compliance, the Administrator is directed to consult and confer on the concerns of foreign governments and users that the fees established by this section conform to the international obligations of the United States and the Administrator is authorized to adjust the fees, if necessary, to conform to the obligations of the United States under international law.

112. IMPROVEMENT OF CURRICULUM STANDARDS FOR AVIATION MAINTENANCE TECHNICIANS

House bill

This section requires FAA to update the curriculum for training aircraft mechanics to reflect current technology and maintenance practices. Maintains requirement for 1900 hours of training

Senate amendment

No provision.

Conference substitute

House bill without specifically mentioning the 1900-hour minimum requirement.

113. AIR QUALITY IN AIRCRAFT CABINS

House bill

This section directs the FAA to undertake the studies and analysis called for in the National Academy of Sciences study on airline cabin air quality.

Senate amendment

Similar provision, but adds two requirements, to study air pressure and altitude and to establish an incident reporting system.

Conference substitute

Senate amendment.

114. RECOMMENDATIONS CONCERNING TRAVEL AGENTS

House bill

This section requires DOT to consider the recommendations of the National Commission to Ensure Consumer Information and Choice in the Airline Industry and to report to Congress on any actions that it believes should be taken.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment.

115. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES

House bill

This section authorizes $100 million to reimburse general aviation businesses that have incurred costs or lost money as a result of security restrictions. The businesses eligible for this reimbursement are the fixed based operator and any other general aviation businesses at Reagan National Airport that has been largely closed to general aviation since September 11, 2001, the 3 general aviation airports in the Washington, D.C. area that were closed after September 11th and are now operating under security restrictions, banner towers who have been prohibited from flying over stadiums, flight schools that have been unable to train foreign students, and any other general aviation business that is prohibited from operating due to similar restrictions.

Senate amendment

Similar provision but does not explicitly include banner towers or flight schools in each coverage. Definition of general aviation entity is slightly different.

Conference substitute

House bill, but narrows reimbursement eligibility to general aviation businesses that are specifically identified as having incurred costs or lost money as a result of the events of September 11, 2001.

116. IMPASSE PROCEDURES FOR NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS

House bill

This section requires the wage dispute between the FAA and the National Association of Air Traffic Specialists to be submitted to the Federal Services Impasse Panel if it has not been resolved within 30 days of enactment of this Act.

Senate amendment

No provision.

Conference substitute

No provision.

117. FAA INSPECTOR TRAINING

House bill

Directs GAO to undertake a study of the training of FAA's safety inspectors. Sense of the House that FAA safety inspectors should take the most up-to-date training at a location convenient to the inspector and that the training should have a direct relation to the inspector's job requirements. Directs the FAA to arrange for the National Academy of Sciences to study the staffing standards the FAA uses for its inspector workforce.

Senate amendment

No provision.

Conference substitute

House bill.

118. AIR TRAFFIC OVERSIGHT SYSTEM (ATOS)

House bill

No provision.

Senate amendment

Requires FAA, within 90 days, to transmit an action plan for overseeing repair stations, ensuring foreign repair stations are subject to the same level of oversight as domestic ones, and addressing problems with ATOS identified by GAO and the IG. Sets forth the requirements for the action plan including extending ATOS beyond the 10 largest airlines.

Conference substitute

Senate amendment that within 90 days, the FAA shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan containing an implementation schedule to strengthen oversight of domestic and foreign repair stations and ensure that FAA-approved foreign repair stations are subject to an equivalent level of safety, oversight, and quality control as those located in the United States. This does not require, nor does it prevent, the FAA to perform the same number of inspections on foreign repair stations as domestic ones.

119. PROHIBITION ON AIR TRAFFIC CONTROL PRIVATIZATION

House bill

Prohibits DOT from privatizing the functions performed by its air traffic controllers who separate and control aircraft. States that this prohibition does not apply to the functions performed at air traffic control towers that are operated by private entities under the FAA's contract tower program. This exemption covers the current air traffic control towers that are part of the FAA contract tower program and to non-towered airports and non-federal towers that would qualify for participation in this program.

Senate amendment

Prohibits DOT from privatizing the functions performed by its air traffic controllers who separate and control aircraft and the functions of those who maintain and certify those systems. Section shall not apply to an FAA tower operated under the contract tower program as of the date of enactment.

Conference substitute

No provision.

120. AIRFARES FOR MEMBERS OF THE ARMED FORCES

House bill

This is a sense of Congress urging airlines to provide low fares for Members of the Armed Forces of the United States. Also includes findings.

Senate amendment

Similar provision. No findings. Refers only to standby tickets.

Conference substitute

House bill.

121. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED AIR SERVICE

House bill

This section extends for 9 more months the requirement that airlines accommodate passengers whose flight is cancelled due to the bankruptcy of the carrier on which that passenger was ticketed.

Senate amendment

Same provision. Also requires DOT to consider waiving this requirement where other airlines operate flights over routes operated in isolated areas dependent on air transportation.

Conference substitute

House bill and Senate amendment but without the waiver in the Senate amendment.

122. INTERNATIONAL AIR SHOW

House bill

This section directs DOT, in consultation with the Secretary of Defense, to study the feasibility of the United States hosting an international air show. A report is required by September 30, 2004.

Senate amendment

No provision.

Conference substitute

House bill to the extent that it directs DOT to work with DOD on an international air show.

123. RETIREMENT BENEFITS OF AIR TRAFFIC CONTROLLERS

House bill

This section allows an air traffic controller who is promoted to a supervisory or managerial position to retain the same retirement benefits as one who was not so promoted. Amends the definition of an ''air traffic controller'' within the Civil Service Retirement System (CSRS) and Federal Employee Retirement System (FERS) to include second level air traffic controller supervisors. Clarifies that CSRS and FERS mandatory retirement provisions that apply to line air traffic controllers do not apply to second level supervisors. Specifies that this section shall take effect on the 60th day after the date of enactment. Allow current second level supervisors who have been promoted prior to enactment to retroactively pay into the higher CSRS accrual rate.

Senate amendment

No provision.

Conference substitute

The provision would ensure that former controllers could keep the retirement benefits they accrued as controllers. Also controllers who were promoted to first line supervisors as well as the supervisors of those first line supervisors would continue to accrue the retirement benefit of controllers. Others who are promoted to higher supervisory positions or who move out of the controller ranks would get controller retirement benefits only for the time they spent as controllers.

124. JUSTIFICATION FOR AIR DEFENSE IDENTIFICATION ZONE

House bill

If the FAA imposes flight restrictions in the Washington D.C. area, this section requires FAA to submit a report to Congress within 60 days explaining the need for such restrictions. If such restrictions are in effect on the date of enactment, this report must be filed within 30 days of the date of enactment.

Senate amendment

Same provision with some different wording.

Conference substitute

House bill.

125. INTERNATIONAL AIR TRANSPORTATION

House bill

This is a sense of Congress urging DOT to define ''fifth freedom'' and ''seventh freedom'' consistently for both scheduled and charter passenger and cargo traffic.

Senate amendment

No provision.

Conference substitute

House bill.

126. REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES

House bill

This section directs DOT, subject to the availability of funds, to reimburse U.S. airlines and airports for the security activities that they are still being required to perform. It also directs DOT to reimburse airports for the space being used to screen passengers if that space was being used or would have been used by concessionaires or other revenue producing activities.

Senate amendment

No provision.

Conference substitute

House bill, but limited to reimbursement for the screening of catering supplies and checking documents at security checkpoints. The Department of Homeland Security, rather than DOT, would be responsible for implementing this provision to the extent funds are made available to them.

127. GENERAL AVIATION FLIGHTS AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT

House bill

This is a sense of Congress that Reagan National Airport should be opened to general aviation flights as soon as possible.

Senate amendment

No provision.

Conference substitute

Requires the Secretary of Homeland Security to develop and implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport. The Administrator of the Federal Aviation Administration is required to allow general aviation aircraft that comply with the requirements of the security plan to land and take off at the airport except during any period that the President suspends the plan developed by DHS due to national security concerns. Also requires a Report to Congress if a plan is suspended by the President.

128. CHARTER AIRLINES

House bill

This section prohibits scheduled charter airlines from operating at Teterboro unless the Secretary finds that it is in the public interest.

Senate amendment

No provision.

Conference substitute

House bill.

129. IMPLEMENTATION OF CHAPTER 4 NOISE STANDARDS

House bill

This section requires DOT to issue rule to implement Chapter 4 noise standards by July 1, 2004.

Senate amendment

No provision.

Conference substitute

House bill but the deadline for the final rule is April 1, 2005.

130. JACKSON HOLE

House bill

No provision.

Senate amendment

Permits Jackson Hole to prohibit operations by small stage 2 aircraft.

Conference substitute

Senate amendment, but only permits a sponsor of a commercial service airport who does not own the airport land and is a party to a long-term lease agreement with a Federal agency (other than the Department of Defense or the Department of Transportation) to impose restrictions on, or prohibit, the operation of small Stage 2 aircraft, in order to help meet the noise control plan contained within the lease agreement. The airport sponsor must give public notice and allow for public comment before imposing a restriction or prohibition.

131. CREW SECURITY TRAINING

House bill

Requires airlines to provide basic security training for flight attendants and sets forth the elements of that training. TSA shall establish minimum standards for that training within one year. Requires TSA to develop and provide advanced self-defense training for flight attendants and sets forth the elements of that training. This training is voluntary and flight attendants are not compensated for taking that training. They cannot be charged a fee. Exempts flight attendants from liability for using self-defense techniques in an actual terrorist situation.

Senate amendment

No provision.

Conference substitute

House bill. The provision authorizes the TSA to set the minimum standards to be included in the basic security training provided by each carrier to train flight and cabin crewmembers to prepare the crew members for potential threat conditions. This could help ensure that each carrier's

training program includes the minimum elements that have been outlined by Congress and the TSA. The programs will be subject to approval of the TSA, who will also monitor and periodically review those programs to assure that the programs are adequately preparing crew members for potential threat situations.

132. STUDY OF TRANSPORTATION SECURITY

House bill

No provision.

Senate amendment

Requires DHS to report in 6 months on the effectiveness of aviation security.

Conference substitute

Senate amendment, but this report may be submitted in lieu of TSA's annual report required by section 44938 of current law.

133. LETTERS OF INTENT TO PAY FOR AIRPORT SECURITY PROJECTS

House bill

No provision, but section 1525 of H.R. 2144 establishes a grant program to airport sponsors for (1) projects to replace conveyers related to security, (2) projects to reconfigure baggage areas, (3) projects that enable EDS installation behind the ticket counters, in baggage sorting areas or as part of an in-line systems, and (4) other security improvement projects determined appropriate. Authorizes Under Secretary to issue letters of intent. Established the Federal share of projects to be 90% for large and medium hubs and 95% for smaller airports. Authorized $500M to be appropriated in each of FY04, FY05, FY06 and FY07 to be available until expended. Prohibits the collection of the security fees unless appropriations cover all outstanding LOI commitments in a given Fiscal year.

Senate amendment

Establishes Aviation Security Capital Fund to provide financial assistance to airport sponsors to defray capital investment in transportation security. Authorizes $500M for each of FY04, FY05, FY06, and FY07 to be derived from the passenger and air carrier security fees. Allocates funds 40% large hub, 20% medium hub, 15% small hub, and 25% discretionary. Amounts allocated to airports are apportioned based on passenger enplanements. Authorizes letters of intent. No provision on Federal share.

Conference substitute

Establishes within the Department of Homeland Security a grant program to airport sponsors for (1) projects to replace baggage conveyer systems related to aviation security; (2) projects to reconfigure terminal baggage areas as needed to install explosive detection systems; (3) projects to enable the Under Secretary for Border and Transportation Security to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or inline with the baggage handling system; and (4) other airport security capital improvement projects. Authorizes Under Secretary to issue letters of intent. Establishes the Federal share of projects to be 90% for large and medium hubs and 95% for smaller projects. This applies to all grants made under letters of intent beginning in fiscal year 2004 even if the letter was issued in fiscal year 2003. The Under Secretary shall revise letters of intent issued before the date of enactment to reflect this cost share with respect to projects carried out after September 30, 2003. Requires $250 million annually from the existing aviation security fee that is paid by airline passengers to be deposited in an Aviation Security Capital Fund, and made available to finance this grant program. Of this $250 million, $125 million shall be allocated based on the following set-asides: 40% to large hub airports, 20% to medium hub airports, 15% to small and non-hub airports, and 25% to any size airport based on aviation security risks. The remaining $125 million shall be used to make discretionary grants, with priority given to fulfilling letters of intent. In addition to the amounts made available to the Aviation Security Capital Fund, there is authorized to be appropriated an additional $250 million to carry out this program. If additional amounts are appropriated pursuant to this authorization, 50% shall be used for discretionary grants, and 50% in accordance with the set-asides discussed above.

134. CHARTER SECURITY

House bill

No provision, but section 1503(1) of H.R. 2144 moves the provisions governing charters into title 49 and exempts military charters from the requirements that would otherwise apply. Also makes a technical change in the size of charter aircraft covered.

Senate amendment

Maintains as a freestanding provision but otherwise virtually the same. Section 406 makes the same technical change.

Conference substitute

Senate amendment, but includes the provision in U.S. Code, title 49.

135. COMPUTER ASSISTED PASSENGER PRESCREENING SYSTEM (CAPPS2)

House bill

No provision, but section 208 of H.R. 2144 requires TSA to certify that civil liberty and privacy issues have been addressed before implementing CAPPS 2 and requires GAO to assess TSA compliance one year after TSA makes the required certification.

Senate amendment

Requires DHS report in 90 days on privacy and civil liberties issues.

Conference substitute

House bill and Senate amendment, but requires the GAO report in the House bill to be submitted 3 months after TSA certification.

136. ARMING CARGO PILOTS

House bill

No provision but section 1521 of H.R. 2144 allows cargo pilots to carry guns under the same program for pilots of passenger airlines. In addition, this provision revises the armed pilots program to do the following—

Make clear that pilot requalification to carry a gun can be done at either Federal or non-Federal facility;

Establish a pilot program to provide firearms requalification training at various non-Federal facilities;

Permit an off-duty pilot to transport the gun in a lockbox in the passenger cabin rather than in the baggage hold; and

Permit flight engineers to participate in the Federal flight deck officer program.

Senate amendment

Similar provision but includes findings and sense of Congress and requires training of cargo pilots to begin in 90 days.

Conference substitute

Senate amendment, but instead of 90-day provision on training cargo pilots, the substitute includes a provision that both passenger and cargo pilots should be treated equitably in their access to training.

137. TSA STAFFING LEVELS

House bill

No provision but section 206 of H.R. 2144 requires TSA to report to Congress in 30 days on its methodology for allocating screeners and equipment among airports.

Senate amendment

Section 409, eliminates the cap in the FY 03 Appropriations Act on the number of TSA screeners.

Conference substitute

Senate amendment.

138. FOREIGN REPAIR STATION SECURITY

House bill

No provision but section 1526 of H.R. 2144 requires security audits of all foreign repair stations within 1 year after TSA issues rules governing the audits. The rules must be issued within 180 days of enactment. If a problem is found, the repair station must address it in 90 days or its certificate will be suspended until it complies. If there is an immediate security risk, the certificate can be revoked immediately. TSA shall establish procedures for appealing such revocations. If the security audits are not completed within the required 1-year, no new foreign repair station can be certified and no existing one can have their certificate renewed. Priority shall be given to auditing stations in countries that pose the most significant security risk.

Senate amendment

Defines domestic and foreign repair station. Within 180 days, FAA must issue rules to require foreign repair stations to meet the same level of safety as domestic repair stations. These rules shall require drug and alcohol testing and the same type and level of inspection as domestic repair stations.

Requires security audit within 180 days. If a problem is found, the repair station must address it in 90 days or its certificate will be suspended until it complies. If there is an immediate security risk, the certificate can be revoked immediately. If the security audits are not completed within the required 180 days, no new foreign repair station can be certified and no existing one can have their certificate renewed. Priority shall be given to auditing stations in countries that pose the most significant security risk. Rules for security audits must be issued within 180 days. If they are not, no new foreign repair station can be certified and no existing one can have their certificate renewed until the rules are issued.

Requires FAA, within 90 days, to transmit an action plan for overseeing repair stations, ensuring foreign repair stations are subject to the same level of oversight as domestic ones.

Conference substitute

House bill with modifications. Lengthened time to issue rule from 6 to 8 months. If TSA fails to meet this deadline, requires a report within 30 days of the deadline explaining the reasons for failing to meet the deadline and the schedule for issuing the rule. Lengthened time for security audits from 12 to 18 months. Eliminated the provision that prohibits renewal of foreign repair station certificates if TSA has not met this 18-month deadline but kept provision that no new stations can be certificated.

139. FLIGHT TRAINING

House bill

No provision, but section 1539 of H.R. 2144 requires background checks on aliens seeking flight training in aircraft with more than 12,500 pounds. Makes TSA responsible for the background check. Specifies the information that can be collected from the alien. Continues the 45-day waiting period. Continues to require security awareness training for employees. Requires, within 90 days, TSA to establish an expedited process that limits the waiting period to 48 hours for individuals who hold a pilot license from a foreign country, have previously undergone a background check, or who have already had pilot training. Exempts from the waiting period those seeking recurrent training or ground training. Doesn't provide for fees.

Senate amendment

Requires background checks on aliens seeking flight training in any sized aircraft.

Makes TSA responsible for the background check. Doesn't specify the info that can be collected. Reduces the waiting period to 30 days. Continues to require security awareness training for employees. Establishes a notification process for aliens who holds a visa and holds a pilot license from a foreign country or has previously undergone a background check. Exempts from the waiting period classroom instruction. Allows fees to be assessed for the background check. Fee cannot be more than $100 in FY 2003 and 2004. Fees are credited to TSA's account. Requires interagency cooperation. Requires TSA to issue an interim final rule in 60 days to implement this section. This section takes effect when that rule becomes effective. U.S. embassies and consulates shall provide fingerprint services to aliens. Report is required within 1 year.

Conference substitute

For all training on small aircraft, includes a notification requirement but no waiting period. For training on larger aircraft, adopts the expedited procedure similar to the House bill if the alien already has training, a license, or a background check and adopts the 30-day waiting period as in the Senate bill for first-time training on large aircraft. Makes TSA responsible for the background check. The managers are disappointed in the amount of time that the Justice Department took to implement this program and on the burdensome requirements it has imposed. Therefore, the substitute specifies the information that can be collected from the alien. Reduces the waiting period to 30 days. Establishes a notification process for all aliens, even if they hold a visa, who seek training on aircraft of 12,500 pounds or less. Requires, within 60 days, that TSA establish an expedited process that limits the waiting period to 5 days for aliens seeking training on aircraft of more than 12,500 pounds who hold a pilot license from a foreign country, have previously undergone a background check, or who have already had pilot training. Requires all others to go through the background check under the 30-day waiting period. Exempts from the process those seeking recurrent training or ground training or demonstration flights or classroom instruction as well as military trainees of the armed forces, including their contractors. Allows fees to be assessed for the background check. Fee cannot be more than $100 in FY 2003 and 2004. Fees are credited to TSA's account. Requires interagency cooperation. Requires TSA to issue an interim final rule in 60 days to implement this section. This section takes effect when that rule becomes effective. U.S. embassies and consulates shall provide fingerprint services to aliens. A report is required within 1 year. Continues to require security awareness training for employees.

140. REVIEW OF COMPENSATION CRITERIA UNDER STABILIZATION ACT

House bill

This section requires GAO to review the way airlines were compensated after 9/11 to determine whether they should be compensated for the devaluation of their aircraft.

Senate amendment

No provision.

Conference substitute

House bill, however study is on DOT criteria and procedures used to compensate airlines.

141. AIRLINE FINANCIAL CONDITION AND EXECUTIVE COMPENSATION

House bill

No provision.

Senate amendment

Requires semiannual GAO report on measures being taken by airlines to reduce costs and improve earnings and on total compensation, including stock options paid to airline executives.

Conference substitute

Requires a report.

142. REVIEW OF CERTAIN AIRCRAFT OPERATIONS IN ALASKA

House bill

This section requires FAA to report to Congress on whether flights in Alaska can be operated under Part 91 of FAA rules even if passengers pay for some of the costs of operating the aircraft.

Senate amendment

No provision.

Conference substitute

Due to the demands of conducting business within and from the State of Alaska, the FAA shall permit, where common carriage is not involved, a company, located in the State of Alaska, to organize a subsidiary where the only enterprise of the subsidiary is to provide carriage of officials, employees, guests, and property of the company, or its affiliate. The substitute sets forth specific limitations on the carriage that is allowed.

143. USING AIP FOR REPLACEMENT OF BAGGAGE CONVEYER SYSTEMS

House bill

This section states that an airport can only use its AIP entitlement funds for airport terminal modifications to accommodate explosive detection systems. AIP discretionary funds will not be available for this purpose.

Senate amendment

Prohibits the use of AIP for this purpose.

Conference substitute

House bill.

144. USING AIP OR PFC FOR SECURITY

House bill

No provision, but section 44901(d)(2)(D)(ii) of H.R. 2144 deletes the requirement that airports unable to make the checked baggage screening deadline give priority to using AIP and PFCs for security projects.

Senate amendment

Amends section 308 of the Federal Aviation Reauthorization Act of 1996 to allow AIP and PFCs to be used for safety and security only if the improvement or equipment will be owned by the airport.

Conference substitute

Repeals section 308 of the Federal Aviation Reauthorization Act of 1996.

145. SECURITY OPERATING COSTS AT SMALL AIRPORTS

House bill

This section allows small airports to use their AIP entitlement funds in fiscal year 2004 to pay the operating costs required to meet new security requirements.

Senate amendment

No provision.

Conference substitute

No provision.

146. WITHHOLDING OF DISCRETIONARY GRANTS

House bill

If an AIP discretionary grant is withheld from an airport on the grounds that the airport has violated a grant assurance, this section requires that the airport be given the same right to a hearing that it would have if the FAA had withheld an entitlement grant. This section does not require the FAA to give a discretionary grant to any particular airport.

Senate amendment

No provision.

Conference substitute

No provision.

147. DISPOSITION OF LAND ACQUIRED FOR NOISE COMPATIBILITY PURPOSES

House bill

Rather than depositing into the aviation trust fund the proceeds from the sale of land acquired as part of a noise compatibility program, this section allows an airport to retain those proceeds and use them to purchase non-residential property near residential property that was purchased as part of a noise compatibility program.

Senate amendment

No provision.

Conference substitute

House bill.

148. GRANT ASSURANCES

House bill

If an airport owner and an aircraft owner agree that an aircraft hangar can be constructed at the airport at the aircraft owner's expense, subsection (a) requires the airport owner to grant a long-term lease, or at least 50 years, to the aircraft owner for that hangar. The lease may be subject to such terms and conditions on the hangar as the airport may impose.

Senate amendment

No provision.

Conference substitute

House bill but does not specify 50 years.

149. STATUTE OF LIMITATION ON REIMBURSEMENT REQUEST

House bill

Makes a governmental entity subject to the 6–year statute of limitations on making requests for reimbursement from an airport. Currently, only the airport sponsor is subject to this statute of limitations.

Senate amendment

Subsection (d) of section 507 is the same provision.

Conference substitute

House bill and Senate amendment.

150. SINGLE AUDIT ACT

House bill

Clarifies the review of revenue use through the annual audit activities under the Single Audit Act of Title 31.

Senate amendment

Subsection (e) of section 507 is the same provision.

Conference substitute

House bill and Senate amendment.

151. AIP FOR PARKING LOTS

House bill

Permits AIP grants to be used to build or modify a revenue generating parking facility at an airport if it is needed to comply with a security directive.

Senate amendment

No provision.

Conference substitute

No provision.

152. ALLOWING AIP TO PAY INTEREST

House bill

Permits AIP grants to be used at small airports to pay the interest on a bond used to finance an airport project.

Senate amendment

No provision.

Conference substitute

House bill but included as one of the innovative financing techniques already in existing law.

153. ALLOWING AIP TO PAY TO MOVE BUILDINGS

House bill

Permits AIP grants to be used to pay the cost of moving a Federal building that is impeding an airport project to the extent the new building is similar to the old one.

Senate amendment

No provision.

Conference substitute

House bill.

154. APPORTIONMENTS TO PRIMARY AIRPORTS

House bill

Lowers the entitlement for the largest airports by 5 cents for each passenger at that airport over 3.5 million in a year.

Senate amendment

No provision.

Conference substitute

No provision.

155. ENTITLEMENT FOR FORMER PRIMARY AIRPORTS

House bill

Allows airports that fell below the 10,000 passenger threshold in 2002 or 2003 to continue to receive their primary airport entitlement for two years if the reason for the passenger decrease was the terrorist attacks of 9/11.

Senate amendment

Allows airports that fell below 10,000 passengers in 2002 to continue to receive their primary airport entitlement for one more year without regard to the reason for the decrease.

Conference substitute

House bill.

156. CARGO AIRPORTS

House bill

This section increases the entitlement for airports with air cargo service from 3% of total AIP to 3.5%.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment.

157. CONSIDERATIONS IN MAKING DISCRETIONARY GRANTS

House bill

This section restates the first five factors that FAA must consider in deciding whether to make a discretionary grant for a project to enhance capacity at an airport. The sixth consideration in current law is eliminated. This section also adds two additional factors for FAA to consider when making discretionary grants for all projects. One is where the project stands in the FAA's priority system. The second is whether work can begin on the project soon after the grant is made.

Senate amendment

Adds an additional consideration for cargo operations.

Conference substitute

House bill and Senate amendment.

158. FLEXIBLE FUNDING FOR AIP ENTITLEMENTS

House bill

Permits an airport sponsor to make AIP entitlement grants for one of its airports available to another one of its airports if that other airport is eligible to receive AIP grants. It also permits an airport to make an agreement with FAA to forego its entitlement if the FAA agrees to make the money foregone available for a grant to another airport in the same State or to an airport that the FAA determines is in the same geographical area.

Senate amendment

Same with respect to the second waiver dealing with the same State or geographical area.

Conference substitute

Senate amendment.

159. FLEXIBILITY FOR GENERAL AVIATION ENTITLEMENTS

House bill

Permits multiyear grants using the general aviation entitlement to the same extent that they are permitted using the primary airport entitlement. Permits retroactive use of the general aviation entitlement in the same way that the primary airport entitlement can be used. It also permits a general aviation airport to use its AIP entitlement for revenue producing facilities, such as building fuel farms and hangars, if the airport certifies that its airside needs are being met. Permits a general aviation airport to use its AIP entitlement for terminal development. Section 513, use of apportioned amounts, subsection (a) allows general aviation airports to carry over their entitlements for 3 years rather than two.

Senate amendment

Same provision.

Conference substitute

House bill and Senate amendment.

160. NOISE SET-ASIDE

House bill

Broadens the purposes for which noise set-aside funds may be used to include projects approved in an environmental Record of Decision and projects to reduce air emissions.

Senate amendment

Increases the percent for grants to 35%. Only allows for funding for noise mitigation committed to in ROD for National Capacity Projects, versus House that allows funding for mitigation in any ROD. Also, does not have funding for new land compatibility and CAA initiatives.

Conference substitute

House bill and Senate amendment with minor technical corrections.

161. PURCHASE OF AIRPORT DEVELOPMENT RIGHTS

House bill

No provision.

Senate amendment

Establishes a pilot program at 10 privately owned public use airports permitting the use of their entitlement to purchase development rights to ensure that the property will continue to be used as an airport.

Conference substitute

Senate amendment.

162. GARY, INDIANA

House bill

No provision.

Senate amendment

Requires FAA to give priority to request for a letter of intent for Gary.

Conference substitute

No provision. The Managers are aware that there are numerous requests for LOI's and urge the FAA to respond as expeditiously as possible to such applications.

163. RELIEVER AIRPORTS SET-ASIDE

House bill

Eliminates the special set-aside for reliever airports.

Senate amendment

No provision.

Conference substitute

No provision.

164. UNUSED AIP FUNDS

House bill

Allows AIP grant funds that are not spent by an airport to be recovered by the FAA and used for a grant to another airport notwithstanding any obligation limitation in an appropriations act.

Senate amendment

Subsection (b) of section 507 is the same provision worded somewhat differently.

Conference substitute

Senate amendment.

165. MILITARY AIRPORT PROGRAM

House bill

Increases from $7 million to $10 million the amount that an airport designated under the military airport program can use for terminal development, parking lots, fuel farms, or hangar construction. Allows an airport designated under the military airport program to use money it receives under that program or from its entitlement for reimbursement for construction of a terminal, parking lot, hangar, or fuel farm.

Senate amendment

No provision.

Conference substitute

House bill, but the allowable amount is increased to $10 million for only 2 years.

166. TERMINAL DEVELOPMENT COSTS

House bill

This section restates two provisions in current law that permit reimbursement for terminal development costs and adds a third provision. The third provision allows a small airport that is designated under the military airport program at which terminal development is carried out between January 2003 and August 2004 to use AIP money to repay money borrowed to build that terminal.

Senate amendment

Reduces the waiting period for an airport that has used AIP to repay the cost of terminal development from 3 years to 1 year before they can use AIP again for terminal development.

Conference substitute

House bill and Senate amendment.

167. AIRPORT SAFETY DATA COLLECTION

House bill

This section allows FAA to use AIP money to enter into a sole source contract with a private entity to collect airport safety data.

Senate amendment

Same provision.

Conference substitute

House bill.

168. AIRPORT PRIVATIZATION PILOT PROGRAM

House bill

Allows a proposed airport privatization to proceed if it is approved by 65% of the scheduled U.S. airlines serving the airport rather than by 65% of all scheduled and charter airlines serving the airport. With respect to a general aviation airport, approval must be by 65% of the owners of aircraft based at the airport, as determined by the Secretary. If an airline has not filed an objection within 60 days, it will be considered to have approved the proposed privatization.

Senate amendment

No provision.

Conference substitute

House bill, but applied only prospectively.

169. FEDERAL SHARE

House bill

Eliminates the provision that limits the Federal share of a discretionary grant for a privatized airport to 40%.

Senate amendment

Increases Federal share to 95% for AIP grants in 2004 to small airports. Allows a different Federal share for projects in State with a significant amount of public land.

Conference substitute

Senate amendment, but for 4 years. Increases the Federal share of a discretionary grant for a privatized airport to 70%.

170. INNOVATIVE FINANCING TECHNIQUES

House bill

This section allows 12 more grants for innovative financing techniques to be issued

but eliminates payment of interest and commercial bond insurance as permitted techniques since those are now covered by section 508(b). It adds payment of interest for large airports as a permitted technique.

Senate amendment

No provision.

Conference substitute

Payment of interest for small airports is put back into the innovative financing section. Instead of allowing AIP to be used by large airports for payment of interest, the substitute allows PFCs to be used for this purpose.

171. AIRPORT SECURITY PROGRAM

House bill

This section directs the FAA to continue to administer the program to test and evaluate innovate aviation security systems and technologies at airports even though most security responsibilities have been transferred to the Department of Homeland Security.

Senate amendment

No provision.

Conference substitute

House bill.

172. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE

House bill

Requires DOT and EPA to ensure that an airport will receive appropriate emission credits for carrying out a project that will reduce emissions at that airport. Directs DOT to carry out a pilot program at no more than 10 airports under which an airport may use AIP grants of not more than $500 thousand to retrofit equipment used at the airport so that they produce lower emissions. Makes projects that will reduce emissions at airports eligible for AIP grants. States that with respect to low-emission equipment that is not already eligible to be purchased with AIP funds, the only portion of the cost that is eligible to be paid for with AIP funds is the portion that the FAA determines represents the increase in the cost of the low-emission equipment over a similar piece of equipment that is not low-emission. Defines low-emission equipment.

Senate amendment

Adds that the DOT and EPA shall issue guidance on eligible low-emission modifications and improvements and how sponsors will demonstrate benefits.

Conference substitute

House bill and Senate amendment.

173. COMPATIBLE LAND USE PLANNING AND PROJECTS BY STATE AND LOCAL GOVERNMENTS

House bill

This section would allow the FAA to use AIP funds to make grants to States and localities for land use planning near airports so that the communities may make the use of land in their jurisdictions more compatible with aircraft operations. Conditions are imposed to avoid undermining the efforts of the airport. This provision expires in 4 years.

Senate amendment

Ties funding for land use planning to national capacity projects only, as opposed to a broader universe of large and medium hubs in House bill. No sunset provision. Would apply to airports even if they have a current Part 150 program.

Conference substitute

House provision with changes to ensure that an airport sponsor is involved in the compatible land use planning and compatible land use project process. The Managers believe that it is essential that the airport sponsor have the ability to enter into an agreement with the State or local government to develop a land use compatibility plan and that the parties should jointly approve the compatible land use plan.

174. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FEDERAL AVIATION ADMINISTRATION

House bill

This section requires FAA to pay rent for the space that it uses at airports. Exceptions are provided for agreements that might be negotiated with the airport and for land and facilities needed to house air traffic controllers. TSA covered by section 1527 of H.R. 2144.

Senate amendment

Similar provision but it also covers TSA use of airport space.

Conference substitute

No provision.

175. MIDWAY ISLAND AIRPORT

House bill

Finds that the airport on Midway Island is critical to the safety of flights over the Pacific Ocean. Directs DOT to enter into an MOU with other government agencies to facilitate the sale of fuel at the airport to help it become self-sufficient. Allows the airport to transfer its navigation aids to the FAA and requires the FAA to operate and maintain them. Makes aviation trust fund money available to the Interior Department for capital projects at the airport.

Senate amendment

Allows the Department of Interior to act as a public agency for the purposes of sponsoring grants for an airport that is required to be maintained for safety at a remote location. Section 510(a) is similar to subsection (b) of the House bill. Section 510(b) is similar to subsection (c) of the House bill.

Conference substitute

House bill, with changes to how funding will be made available to the Secretary of Interior. It will be done by a reimbursable agreement rather than a grant. The Managers feel strongly that all of the Federal agencies involved in the administration of Midway Island should work cooperatively to ensure there is a working airfield there.

176. INTERMODAL PLANNING

House bill

Requires medium and large hub airports building a new airport, new runway, or runway extension to make available to any metropolitan planning organization (MPO) in the area a copy of the airport layout plan and airport master plan.

Senate amendment

No provision.

Conference substitute

House bill.

177. STATUS REVIEW OF MARSHALL ISLANDS AIRPORT

House bill

Requires DOT to report within 6 months on whether the airport at the Marshall Islands should get a grant under the AIP.

Senate amendment

No provision.

Conference substitute

Makes the sponsors of airports located in the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau eligible for grants from the Airport Improvement Program Discretionary Fund and Small Airport Fund for fiscal years 2004 through 2007. The Managers have made the entities listed in section 188 eligible for AIP funding. The FAA should strongly consider an application for AIP funds by any one of the entities.

178. REPORT ON WAIVER OF PREFERENCE FOR BUYING GOODS PRODUCED IN THE UNITED STATES

House bill

Requires DOT, within 90 days, to list all waivers granted from the Buy America Act since the date of enactment of that Act and the authority and rationale for that waiver.

Senate amendment

No provision.

Conference substitute

House bill but limited to waiver granted during the previous 2 years.

179. EXTENSION OF EXPENDITURE AUTHORITY

House bill

Allows grants to be made from the aviation trust fund for the purposes specified in this Act.

Senate amendment

Similar provision but adds a conforming amendment to section 9502(f).

Conference substitute

Senate amendment plus additional language making a technical correction to the domestic flight segment portion of the airline ticket tax. Beginning with calendar year 2003, the domestic flight segment portion of the airline ticket tax is adjusted for inflation annually. The technical correction clarifies that, in the case of amounts paid for transportation before the beginning of the year in which the transportation is to occur, the rate of tax is the rate in effect for the calendar year in which the amount is paid. The provision is effective for flight segments beginning after December 31, 2002.

180. ADDITIONAL MATTERS

The Managers strongly encourage the FAA and the Occupational Safety and Health Administration to continue to work under the framework established in the August 2000 Memorandum of Understanding and establish a coordination mechanism to determine which existing and future OSHA regulations can be applied to an aircraft in operation without compromising aviation safety.

The Managers are aware of concerns about the impact of aircraft noise on residential areas, including those surrounding the communities of the four airports of the Port Authority of New York and New Jersey (PANYNJ). Although the FAA determined that aircraft noise pollution was the strongest and most widespread concern raised by the public at its twenty-eight public scoping meetings in five states in 2001, the PANYNJ has not undertaken action to mitigating residential complaints in the neighborhoods surrounding its airports. Therefore, it is the hope of the Conference Committee that the PANYNJ will work in good faith with the New York and New Jersey Congressional delegations to address these issues, including undertaking a part 150 study to qualify for Federal residential soundproofing dollars or to begin undertaking residential soundproofing in the most affected areas in the footprint with particular focus on the neighborhoods surrounding LaGuardia Airport.

The Managers strongly encourage the FAA to work with state aviation agencies and universities to develop a national, innovative program that would offer practical training and information resources for those who operate, maintain, and administer public use airports across the nation on topics such as pavement maintenance, snow and ice control, project development and funding, wildlife control and safety and operations. To further this program, the Committee recommends that FAA consult with state aviation agencies and universities that have created similar programs for general aviation airports in their State.

The legislation includes a section that amends section 4(b) of the Rivers and Harbors Appropriations Act of 1884 to clarify that the restriction in that section with respect to taxes on vessels or other water craft does not apply to property taxes on vessels or water craft, other than vessels or water craft that are primarily engaged in foreign commerce, so long as those taxes are constitutionally permissible under long-standing judicial interpretations of the Commerce Clause. To assure the consistent application of legal principles concerning non-Federal taxation of interstate transportation equipment, the amendment in this section is effective as of November 25, 2002. Over the years, the U.S. Supreme Court has ruled on the constitutionality of property taxes on various forms of interstate and international transportation equipment in a number of cases, including but not limited to *Pullman's Palace Car Co.* v. *Pennsylvania*, 141 U.S. 18 (1891) (railroad rolling stock); *Ott* v. *Mississippi Valley Barge Line Co.*, 336 U.S. 169 (1949) (barges on inland waterways); and *Braniff Airways, Inc.* v. *Nebraska State Board of Equalization*, 347 U.S. 590 (1954) (domestic aircraft); *Complete Auto Transit, Inc.* v. *Brady*, 430 U.S. 274 (1977); and *Japan Line* v. *County of Los Angeles*, 441 U.S. 434 (1979). This line of decisions has sustained property taxes in interstate transportation cases when the tax is applied to an activity with a substantial nexus with the taxing entity, is fairly apportioned, does not discriminate against interstate commerce, and is fairly related to the services provided by the taxing entity. The exception for state and local taxes on vessels or watercraft that are primarily engaged in foreign commerce implements the holding of the Japan Line case. The committee notes that section 4(b) does not affect whether sales or income taxes are applicable with respect to vessels. The purpose of section 4(b) was to clarify existing law with respect to Constitutionally permitted fees and taxes on a vessel, but also to prohibit fees and taxes imposed on a vessel simply because that vessel sails through a given jurisdiction.

The Managers are aware of the concerns raised about the recent increase in shipment interruptions during the transportation of essential radiopharmaceuticals due to new air transportation security mandates. The Committee recommends that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, review current procedures for shipment of radiopharmaceuticals and recommend actions to ensure the timely delivery of them. If the Secretary of DHS undertakes this study, the Secretary shall also submit recommendations to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the actions taken to ensure that timely delivery of these medical products by commercial aircraft no later than 180 days after the enactment of the Act.

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DON YOUNG,
JOHN MICA,
VERNON J. EHLERS,
ROBIN HAYES,
DENNY REHBERG,
JOHNNY ISAKSON,

From the Committee on Energy and Commerce, for consideration of sec. 521 of the House bill and sec. 508 of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
JOE BARTON,

From the Committee on Government Reform, for consideration of secs 404 and 438 of the House bill and sec. 108 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,
CHRISTOPHER SHAYS,

From the Committee on the Judiciary, for consideration of secs. 106, 301, 405, 505, and 507 of the Senate amendment, and modifications committed to conference:

JAMES SENSENBRENNER, Jr.,
HOWARD COBLE,

From the Committee on Resources, for consideration of secs. 204 and 409 of the House bill and sec. 201 of the Senate amendment, and modifications committed to conference:

RICHARD POMBO,
JIM GIBBONS,

Provided that Mr. Renzi is appointed in lieu of Mr. Pombo for consideration of section 409 of the House bill, and modifications committed to conference:

RICK RENZI,

From the Committee on Science, for consideration of sec. 102 of the House bill and secs. 102, 104, 621, 622, 641, 642, 661, 662, 663, 667, and 669 of the Senate amendment, and modifications committed to conference:

SHERWOOD BOEHLERT,
DANA ROHRABACHER,

From the Committee on Ways and Means, for consideration of title VI of the House bill and title VII of the Senate amendment, and modifications committed to conference:

BILL THOMAS,
DAVE CAMP,
Managers on the Part of the House.

JOHN MCCAIN,
TED STEVENS,
CONRAD BURNS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
Managers on the Part of the Senate.

NATIONAL CEMETERY EXPANSION ACT OF 2003

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 1516) to provide for the establishment by the Secretary of Veterans Affairs of five additional cemeteries in the National Cemetery System.

The Clerk read as follows:

Senate amendments:

Page 2, line 8, strike out ''five'' and insert ''six.''

Page 2, after line 18, insert: (6) The Sarasota County, Florida, area.

Page 3, line 17, strike out ''five'' and insert ''six''.

Amend the title so as to read: ''An Act to provide for the establishment by the Secretary of Veterans Affairs of additional cemeteries in the National Cemetery Administration.''

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

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

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

Mr. Speaker, I am pleased that the other body acted upon H.R. 1516 as amended in such a timely manner. Our action today will clear this measure for the President's signature. I am hopeful that we will have the opportunity to clear most, if not all, of our veterans measures which the House has acted upon before we adjourn next week.

The VA adopted a goal, Mr. Speaker, of providing the option of burial in a national or State veterans cemetery to 90 percent of the veterans within 75 miles of their homes. H.R. 1516, as amended, would help the VA meet that goal in six additional locations. It reflects the findings of a recently-completed VA study which determined the areas in the country most in need of a new national cemetery.

H.R. 1516, as amended, would direct the Secretary of Veterans Affairs to establish a new national cemetery not later than 4 years after the date of enactment in six areas determined to be most in need of such a cemetery. Those locations include the areas of southern Pennsylvania, which will serve 170,000 veterans; Birmingham, Alabama, which will serve 212,000 veterans; Jacksonville, Florida, which will serve 189,000 veterans; Bakersfield, California, which will serve 184,000 veterans; Greenville/Columbia, South Carolina, which will serve 169,000 veterans; and, Sarasota County, Florida, which will serve 406,000 veterans.

The Senate amendments to the House bill add the Sarasota County location to the other five. I want to thank especially the gentlewoman from Florida (Ms. HARRIS) for her timely intervention in ensuring that we included that in our legislation and adopted this Senate amendment to our house bill.

All told, Mr. Speaker, more than 1.3 million veterans and their survivors will benefit from these additional cemeteries. The Secretary would be required to use the advanced planning funds to begin the work necessary for establishment of each cemetery.

Additionally, in determining the specific cemetery locations, the bill would require that the Secretary solicit the advice and views of the State and local veterans organizations representatives and other individuals as the Secretary deems appropriate.

I would especially like to thank the gentleman from Pennsylvania (Mr. GERLACH) who is the prime sponsor of the bill and his staff for his work on the bill, as well as the gentlewoman from Florida (Ms. HARRIS) and her staff, the gentleman from South Carolina (Mr. BROWN), our very distinguished chairman of the subcommittee, and the gentleman from Maine (Mr. MICHAUD) who worked very hard in ensuring that this legislation was properly crafted and met the needs of our veterans. As always, I want to thank my good friend and colleague, the gentleman from Illinois (Mr. EVANS), and his staff for their good work on this bill as well.

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

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

Mr. Speaker, I rise today in support of H.R. 1516, the National Cemetery Expansion Act of 2003, as amended, by the Senate. I want to thank the chairman and ranking member of the full committee, the gentleman from New Jersey (Mr. SMITH), and the ranking member, the gentleman from Illinois (Mr. EVANS), for their leadership on the committee. I also want to extend a personal thanks to the gentleman from South Carolina (Mr. BROWN), the chairman of the Subcommittee on Benefits for his work in helping craft this legislation.

H.R. 1516 provided for the authorization and establishment of six new national cemeteries in accordance with the VA's most current burial needs assessment report.

□ 1330

The Senate amended this bill to include a sixth national cemetery to be located in Sarasota County, Florida.

Adding this sixth national cemetery is necessary so that we may provide much-needed burial services to an area of the country with a high and increasing veterans population.

I know how important burial in a veterans cemetery is to our national veterans. Many brave men and women who put on a uniform to protect us during World War II and the Korean War pass from us every day. The veterans of this Nation deserve nothing less than an honored and dignified final resting place.

Mr. Speaker, H.R. 1516 is a good bill, an important bill; and I urge all Members to support its passage.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I rise today in support of H.R. 1516, as amended, and reiterate the comments of our chairman in commending the other body for acting so quickly.

In December of 2001, the Logistics Management Institute recorded their finding on the current and future burial needs for veterans. Their findings were based on VA providing a burial option for 90 percent of the veterans residing within a 75-mile service area of an open national or State cemetery.

LMI concluded that 31 additional veterans cemeteries will be needed over the next 20 years in increments of 5 years. H.R. 1516, as amended, will require the Secretary of Veterans Affairs to establish a new national cemetery in the top six areas of need within 4 years of the date of enactment of this act.

The six cemeteries identified in today's bill would serve over 1 million veterans. Among the six is a new cemetery in the Greenville/Columbia, South Carolina, area. Since I served for 16 years in the State House in Columbia, I understand firsthand how important this is to the veterans in that area. This cemetery would serve more than 169,000 veterans and their survivors, and I am pleased it is included in this bill.

I want to thank the ranking member of the Subcommittee on Benefits, the gentleman from Maine (Mr. MICHAUD), as well as the chairman and ranking member of the full committee, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS). Time and time again these folks showed their commitment to our veterans and their families.

Mr. Speaker, with this bill we expand the opportunities for burial in the national veterans cemetery, which is no less than our final show of gratitude to our servicemembers. I urge my colleagues to support H.R. 1516, as amended.

Mr. MICHAUD. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. EVANS), the ranking member.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 1516, the National Cemetery Expansion Act of 2003, as amended by the Senate.

We all know the men and women of the Greatest Generation who have served this country so grandly in World War II and Korea have reached their senior years. Approximately 1,500 veterans from all eras pass each day from this planet, and the rate is projected to increase in years to come. It is our responsibility to provide proper final resting places for all these heroes.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, I enthusiastically rise in support of H.R. 1516, and I am especially pleased we are going to have a national cemetery finally in Jacksonville, Florida. This is in the northeast central Florida corridor where we have a high military presence. We had this area represented by the gentleman from Florida (Mr. CRENSHAW) and, of course, the gentlewoman from Florida (Ms. CORRINE BROWN) and recently by Representative JOHN MICA. All four of us serve Jacksonville and north central Florida. All of us are very pleased that this cemetery is coming. I am proud that the Jacksonville cemetery has been the intent of my bill, H.R. 197, and others that I have offered during the last 6 years of Congress.

I thought I would just briefly in the time I have also talk about Jacksonville, as why it is such a strategic place for a national VA cemetery. Even before the United States was even a country, there have been veterans fighting in Jacksonville, so it is altogether fitting to establish a national VA cemetery here. Its very name was initially, and is presently, chosen in honor of war heroes. It has a strategic location. It is prominent on the Atlantic Ocean. It has a port, and it has been in many conflicts since its founding.

It was caught in the crossfires of war with Spain, France, the Revolutionary War, and the Seminole Indian War. It was occupied numerous times during the Civil War. And during World War I, 25 steamers were launched from Jacksonville ports. In late February 1942, German spies made it on the shore of Ponte Vedra, but fortunately they were captured before they could blow up Florida's railroad lines and stop the shipment of war supplies.

Mr. Speaker, during the 1991 Persian Gulf War, this port was active again. Jacksonville moved supplies and personnel more than any other port in the country. Nearby Blount Island has a command on the St. John's River in Jacksonville. It is the site of the Marine Corps' Maritime Prepositioning Ships, MPS. Employment of MPS assets during Desert Storm and Desert Shield, Restore Hope, Continued Hope in Somalia, and the present Operation Restore Freedom and Operation Iraqi Freedom decisively demonstrate the utility of these expeditionary forces.

We have also the Mayport Naval Air Station with an aircraft carrier station there. We have the naval air station and depot there also.

Mr. Speaker, there are a lot of veterans, a lot of military history and presence in Jacksonville; and I just want to remind my colleagues that it is a very, very good place, a resting place for our veterans.

Of course, like others who will speak on behalf of their cemetery, the 2000 U.S. Census shows the revised projections forecasting a population of just under 200,000 by the year 2005. I think that demonstrates what we all know, that a lot of veterans are moving into Florida, a lot of them are moving into northeast Florida to retire. They deserve a resting place with dignity and beauty. I think this cemetery will add a lot to that promise.

Mr. Speaker, I will conclude by also mentioning our Nation's second largest veteran population and number one in age in terms of just who they are. Nearly 325,000 veterans call home somewhere in this area of northeast central Florida. It is interesting, a number of current active duty and armed servicemembers are calling Florida and Jacksonville their home. So they might retire in Texas or California or somewhere in the United States, and they will come back to Florida.

We have a close proximity to our veterans hospital in Alachua County and Duval County, which have sent a lot of Reservists and National Guard to Iraq. So this whole area, Mr. Speaker, is demonstrating the importance of this cemetery. Of course, the next closest proximity is in Marietta, Georgia, which is just north of Atlanta. So a new national VA cemetery in Jacksonville will answer this unmet need not only for northern Floridians but also for southern Georgians.

I appreciate the support of the chairman and subcommittee chairman. We are now providing a dignified, hallowed ground for our veterans. They deserve it.

Mr. MICHAUD. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. HOEFFEL), a gentleman who has fought so diligently to make sure that the southeastern Pennsylvania cemetery was included in the bill.

Mr. HOEFFEL. Mr. Speaker, I thank the gentleman from Maine (Mr. MICHAUD) for yielding me time and for his leadership on the subcommittee that has brought this bill forward. I want to also thank the Chair of the subcommittee, the gentleman from South Carolina (Mr. BROWN), and also the Chair and ranking member of the full committee, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS).

This bill, H.R. 1516, is very good legislation that will create new cemeteries across this country of ours, particularly in southeastern Pennsylvania where a tremendous need for a new veterans cemetery has been demonstrated throughout the years.

In southeastern Pennsylvania, nearly 300,000 veterans live over 65 miles from the closest veterans cemetery. And in that congested part of the State, the travel time to that open cemetery is long and arduous. And this veterans cemetery located somewhere in southeastern Pennsylvania will be a tremendous service to the families of veterans and a great way of honoring the service of those who have given so much to this country.

Mr. Speaker, I really stood up to, in addition to indicating my support for the bill, my second purpose was to compliment the gentleman from Pennsylvania (Mr. GERLACH) for the great job he did in breaking the logjam that existed over this issue.

My predecessor, Jon Fox, and then I, introduced legislation in prior Congresses to establish a new veterans cemetery at Valley Forge National Historic Park, which is still a site that I would love to see chosen for this cemetery. But there are some legitimate objections to that park, and the dispute that we got into was sidetracking this proposal.

The gentleman from Pennsylvania (Mr. GERLACH) was able to figure out a way to break that logjam by creating a commission and giving the veterans commission some leeway to pick the appropriate site in consultation with veterans organizations back home. As we have moved forward, other areas of the country have decided this is also the right way to go, and so we have before us today a very sound bill that will establish new cemeteries. And that is what we are trying to do, not fight over locations and get hung up on various procedures, but to actually get the job done. So I thank the gentleman from Pennsylvania (Mr. GERLACH). It was a pleasure to work with him. I was proud to be the leading Democratic cosponsor of H.R. 1516 when the gentleman brought it forward.

I have spoken with our former colleague, Mr. Jon Fox. He is thrilled with the progress on this; and, frankly, Senator SPECTER in the other body has greatly helped move this forward. So it has been a good bipartisan approach.

Again, I thank the Chair, the gentleman from New Jersey (Mr. SMITH), and the ranking member, the gentleman from Illinois (Mr. EVANS), for their great work. And we will be able to provide wonderful service now, hopefully in the next 4 years, in these new locations to create new veterans cemeteries to honor the veterans that have served this country and to remember the need to help their family members and their friends have the convenience of a veterans cemetery that is local to them and easy for them to get to to continue to honor these veterans for years to come.

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

Mr. Speaker, I want to thank the gentleman from Pennsylvania (Mr. HOEFFEL) for his good work on this bill as well. This is a bipartisan bill, and he certainly did his part in making sure this legislation went forward, so I do want to thank him.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GERLACH), the prime sponsor of this bill, who has broken a logjam; and now we will soon have a bill signing in this important legislation, not just for Pennsylvania but for other regions as well; it will go forward to the President and will become law.

Mr. GERLACH. Mr. Speaker, I first would like to thank the gentleman from New Jersey (Mr. SMITH) and the ranking member from Illinois (Mr. EVANS) for their great work and their staffs' great work in bringing H.R. 1516 to the floor today. Special thanks to the lead Democrat sponsor of the legislation, the gentleman from Montgomery County, Pennsylvania (Mr. HOEFFEL), for his persistence, not only in this session but in prior sessions to bring this to a conclusion today legislatively.

I also would like to thank the Senator from Pennsylvania, Senator SPECTER, and his staff and ranking member, Senator GRAHAM, for their work also over on the Senate in allowing us to move this forward.

Most importantly, I would like to thank the veterans of southeastern Pennsylvania for their great service and sacrifice to our country over the years.

This legislation was introduced last March to establish a new national veterans cemetery in southeastern Pennsylvania; and as that bill moved through the Committee on Veterans' Affairs, I am very pleased to see that the additional sites were added for other areas of the country that likewise have the need to have veterans cemeteries for their veterans.

The need for a cemetery in our area is well-documented and long overdue. The Philadelphia national cemetery is virtually closed with the exception of cremated remains to nearly 400,000 veterans that reside in the five counties and make up the metropolitan Philadelphia area.

While cremation may be alternative to some, it is certainly not the preference to most; but unfortunately it is the only option for Philadelphia-area veterans currently if they want to have their remains reposed at a veterans cemetery close to home.

The only other national cemetery in our region is the Indiantown Gap Cemetery, which is a long drive from Philadelphia and can be very difficult for widows, widowers, and other family members who want to visit the graves of their loved ones. I would note that more than 290,000 area veterans live more than 65 miles from Indiantown Gap National Cemetery.

The Secretary of Veterans Affairs has expressed his support for the establishment of a new cemetery in southeastern Pennsylvania after analyzing two factors not taken into account in the previous veterans affairs department study. First, the Beverly National Cemetery in nearby Burlington County, New Jersey, is filling up faster than expected and is only available to New Jersey veterans. Additionally, the department recently added Monroe County, Pennsylvania, to the greater Philadelphia service area, thereby increasing the number of the veterans in need to over 175,000, the statistical benchmark for the establishment of a new cemetery.

□ 1345

The Secretary also acknowledged that the Indiantown Gap National Cemetery in Lebanon County, Pennsylvania, is at least 80 miles from Philadelphia, which contrasts with the Department's guidelines of having a veterans cemetery within 75 miles of a veteran's home.

Consequently, the Secretary has expressed his support for a new cemetery in our area to honor those who would be laid to rest there. This legislation would provide for its establishment within a 4-year time period and allow for the input of local officials and veterans in determining its specific site.

The importance of a veterans cemetery from our part of Pennsylvania has already been recognized for a long period of time. In 1862, the 37th Congress created the National Cemetery of Philadelphia when they initially established what has become a large network of national cemeteries across the United States. Southeastern Pennsylvania veterans and the veterans living in the other areas included in the bill today should, like those in the past, have the opportunity to be buried close to home after providing the same level of heroic service and sacrifice to our Nation.

I urge the support of the Members when we vote on this legislation and,

again, thank the chairman of the committee for his support.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MICA), my good friend and colleague.

Mr. MICA. Mr. Speaker, first I wish to thank the gentleman from New Jersey (Mr. SMITH), the chair of the committee, and also the gentleman from South Carolina (Mr. BROWN), the subcommittee chair, and also the gentleman from Pennsylvania (Mr. GERLACH) for their leadership and the bipartisan support on both sides of the aisle for this much-needed legislation. I think that it is very appropriate that we follow the legislation that was just handled to take care of the medical concerns and need of our veterans by also taking care of their last wishes.

Florida is so privileged to have two of the six new cemeteries that will be dedicated as national veterans cemeteries under this legislation, and what I was told by staff is that the basis of the designations is not done just by political power, but by actual need. And certainly Florida, whether it is south, central or northeast, is the recipient of so many of those men and women who served our Nation and have chosen to retire, to work and to live out their final days in our great State.

So this is the very least that we can do. We have over 1,000 veterans dying across the land every day, World War II veterans and others, and again, many of them coming to Florida. As we adjust our medical needs and health care services to our veterans, it is also appropriate that we make this final adjustment that they have a decent burial place in our State where they have chosen to live, work and also to retire.

I thank my colleagues for their leadership, and I urge the passage of this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself 10 seconds.

I thank the gentleman from Florida (Mr. MICA) for his contribution, and just remind him that his brother, Dan Mica, used to be on the House Committee on Veterans Affairs and never lost an opportunity to remind us how everyone, everybody ultimately moved to Florida from the northeast and everywhere else. So his point about need was very well-taken.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida (Ms. HARRIS) who, again, worked very hard to ensure that the Sarasota provision was included in our bill.

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

Mr. Speaker, I rise and urge my colleagues to support H.R. 1516, the National Cemetery Expansion Act of 2003, as amended by the Senate. On July 21, this House passed the original 1516 by unanimous consent. The bill directs the Secretary or Veterans Affairs to establish five additional cemeteries within the national cemetery system.

Although the original version that we passed 3 months ago addresses the needs of hundreds of thousands of veterans across our Nation, that original version did not acknowledge the men and women of southwest Florida who comprise one of the Nation's largest population of veterans. Currently, Bay Pines National Cemetery in St. Petersburg, Florida, constitutes the closest national cemetery that serves southwest Florida's veterans. For many families, visiting this location involves a strenuous drive. Moreover, Bay Pines, which encompasses a mere 27.3 acres, accepts only cremated remains.

I strongly believe that we should not impose this hardship of travel upon our veterans' families. Moreover, forcing a potentially objectionable method of entombment upon veterans, as a condition of receiving the final tribute they earned, is patently wrong.

The Department of Veterans Affairs regards Bay Pines as an open cemetery for the 13th District's veterans until the year 2016. This designation means that the Department regards that cemetery as sufficient to serve their needs until that year. These brave men and women require a new national cemetery long before then.

Thanks to the chairman of the Senate Committee on Veterans' Affairs, Senator ARLEN SPECTER, and to our own extraordinary Committee on Veterans' Affairs chairman, the gentleman from New Jersey (Mr. SMITH), and to my friend and colleague, the gentleman from Pennsylvania (Mr. GERLACH), we have an opportunity to correct this oversight today.

I respectfully urge my colleagues to accede to the amended version of H.R. 1516 that the Senate passed on October 17 which specifies the Department of Veterans Affairs shall establish a new national cemetery in the Sarasota, Florida, area. Upon the passage of H.R. 1516, approximately 406,000 veterans who live in my District finally have the opportunity to receive the internment, according to their wishes, in a place of honor, closer to their home.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. CRENSHAW), another friend and great advocate for this issue.

Mr. CRENSHAW. Mr. Speaker, I thank the chairman for the time.

I rise in support of House bill 1516 because it keeps a commitment, a sacred commitment to the men and women of our military. Our country has chosen to honor our veterans because of their sacrifice and because of their service. Our veterans did not serve to become heroes. They did not fight because they loved battle. Our veterans went to war because our country asked them to go to war. They fought to defend our freedom.

Such supreme dedication demands supreme recognition, and that is what this bill does. In Florida, we have over 2 million veterans, but only four veterans cemeteries. One is completely full, one accepts only cremated remains, and two are over half a State away from my district in northeast Florida.

This bill provides that a veterans cemetery will be built in northeast Florida. Our veterans want the cemetery. Our veterans need the cemetery, and most of all, our veterans deserve a cemetery.

I urge the passage of this legislation.

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

In closing, I would like to urge my colleagues to support this legislation, and I also want to once again thank the gentleman from New Jersey (Mr. SMITH), the chairman of the committee, for his working extremely hard with the gentleman from Illinois (Mr. EVANS), the ranking member, to make sure that we pass bipartisan legislation because veterans are from both political parties, and I think they deserve the very best, and I appreciate the excellent leadership from both the gentleman from New Jersey (Mr. SMITH), the chairman, and the gentleman from Illinois (Mr. EVANS), the ranking member.

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

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

I, too, want to thank my friends and colleagues on the other side, the gentleman from Maine (Mr. MICHAUD) and, of course, our distinguished chairman of the subcommittee who spoke earlier, and the gentleman from Illinois (Mr. EVANS), the ranking member, just thank them for their good work on this, and the gentleman from Pennsylvania (Mr. GERLACH), of course the prime sponsor.

I also want to thank Senator SPECTER who is the chairman of the Senate Veterans Committee with whom we worked on all of these issues, but he got this back very, very quickly in a way that actually improved it. So I want to thank him for that, and Senator GRAHAM.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today I ask for support of H.R. 1516, which will establish national cemeteries in parts of the country where they are needed the most, in—Southeastern Pennsylvania; Birmingham, Alabama; Bakersfield, California; Greenville/Columbia, South Carolina; Sarasota County, Florida; and my own Jacksonville, Florida.

Florida has the second largest population of veterans in the Nation—totaling almost two million. There are more than 325,000 veterans in the Northeast Florida/Southeast Georgia area alone. One out of every ten deaths nationally is a resident of Florida at the time of interment. And, veterans' deaths are increasing each year as World War II and Korean War-era veterans advance in age. Soon, we will be unable to meet the burial needs of our veterans. Northeast Florida is in dire need of a new cemetery to accommodate veterans and their families. We owe it to our veterans to make certain that they have an appropriate final resting place.

The nearest ''open'' cemetery serving Northeast Florida is in Bushnell, Florida, which is

150 miles from Jacksonville—a three-hour drive. Florida's two smaller national cemeteries in Pensacola and St. Augustine are closed due to full capacity. The situation for Jacksonville-area veterans is almost desperate.

The National Cemetery Administration's intent is to make veterans' burial needs available in a state or national cemetery within 75 miles of the veteran's home. Veterans in the Jacksonville area are twice the distance from an open national cemetery than the National Cemetery Administration's goal. This is unacceptable. People need to be able to visit their loved one's final resting place without being burdened with a six-hour round trip from Jacksonville. We need to show veterans the respect that they have earned.

I ask that my colleagues support this important legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 1516.

The question was taken.

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

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1516, as amended.

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

There was no objection.

FALLEN PATRIOTS TAX RELIEF ACT

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3365) to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

The Clerk read as follows:

H.R. 3365

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 ''Fallen Patriots Tax Relief Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The tragic events of September 11, 2001, and subsequent worldwide combat operations in the Global War on Terrorism and in Operation Iraqi Freedom have highlighted the significant contributions of members of the Armed Forces in support of the national security of the United States and the sacrifices made by those members in the defense of freedom.

(2) The sacrifices made by the members of the Armed Forces are significant and are worthy of meaningful expressions of gratitude by the Government of the United States, especially in the case of sacrifice through loss of life.

(3) The death gratuity payment made by the United States Government for deaths while in military service has historically been tax exempt.

(4) The military death gratuity payment should remain tax exempt in order to assist families of fallen patriots to continue their quality of life during their greatest time of need.

(5) The Congress should periodically increase the amount of the military death gratuity payment to ensure that its value is not diminished.

SEC. 3. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO DECEASED MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking ''$6,000'' and inserting ''$12,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.

SEC. 4. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL.—Paragraph (3) of section 134(b) of the Internal Revenue Code of 1986 (relating to qualified military benefit) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted on or before the date of the enactment of this subparagraph.''.

(b) CONFORMING AMENDMENT.—Section 134(b)(3)(A) of such Code is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM JOHNSON).

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

Mr. Speaker, I rise today in support of this bill, the Fallen Patriots Tax Relief Act. It is important to me, and I think to the whole Congress, that we get this enacted right away. It is unconscionable to me that a knock at the door by a military chaplain is followed by a knock on the door from the tax man.

Sadly, this is the case. I had the distinct honor of serving my country in the Air Force for about 29 years. So my family and I know something about this part of military life, and I will never forget, after I got home from being a prisoner of war, that my wife said that one of her worst moments was when the military chaplain pulled up in front of the house after I was shot down and her heart just stopped. She did not know what they were going to say, but she knew it was not going to be good, and I cannot imagine today the unspeakable despair of a family who just lost the loved one in service of their country only to be followed up by the horror of a visit from the tax man. That is just wrong. This bill fixes that. We need to change that law today.

This bill permits the entire amount of the death benefit gratuity to be tax free. It also increases the amount of the death benefit to $12,000, which is more in line with the value of these benefits when they were initially created.

This is a clean bill. There is absolutely no good reason for it to get fouled up in the same legislative back water that stalled three previous provisions of this bill.

Sadly, every day we hear of deaths in Iraq and other military hot spots around the globe. In the 2 years since 9/11, it has been increasingly important that we eliminate the unfair, immoral tax on the death benefit of a servicemember's loved ones who receive that from the Armed Forces.

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

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

There is no need for me to reiterate the details of this bill. The gentleman from Texas has outlined them. I strongly support the bill, and I agree with him wholeheartedly, that its passage is long overdue.

I will also say that it is one of my great honors to serve in the United States Congress with my friend SAM JOHNSON. He rendered outstanding service as a member of our Armed Forces over a very long period of time. He was also, as my colleagues all know, a prisoner of war for 7 years and endured torture during his service on behalf of our country. Thankfully, he came back home and has rendered outstanding service to his community, to his State, and his Nation ever since.

□ 1400

I am grateful to him, and I am grateful to all of those who served in our Armed Forces through the years.

As I get older, I work more at keeping my priorities straight. Part of that for me is to remember that had it not been for all of the men and women who served in the United States military through the years, the rest of us would not have the privilege of going around bragging, as I often do, about how we live in the freest and most open democracy on the face of the Earth.

Freedom is not free. We have paid a tremendous price for it. Part of that

price is visible in this Chamber. And today we are talking about those who made the supreme sacrifice. The gentleman from Texas (Mr. SAM JOHNSON) was a prisoner of war in the same war that took the life of my brother, HM3 Bill McNulty; and I think that is why I feel especially close to SAM.

Mr. Speaker, this is a very, very minor benefit to the families of those who made the supreme sacrifice, and we ought to pass it with dispatch. I strongly support this bill, and I urge all of my colleagues to vote for it.

Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for yielding me this time and for his long leadership on tax fairness and support for our men and women in uniform. I also want to publicly express my appreciation for the leadership and the service of the gentleman from Texas (Mr. SAM JOHNSON).

Mr. Speaker, I rise in strong support of H.R. 3365. I had the opportunity last night to speak about the need to change the current military death gratuity, so I simply want to thank my colleague from Arizona (Mr. RENZI) for making sure that the House delays no longer in acting on this urgent issue. I also want to commend the tireless work of the gentleman from Texas (Mr. EDWARDS) and the gentleman from North Carolina (Mr. JONES), who were pioneers on this issue and so many others that benefit our military and their families.

I want to thank my good friend and colleague, and the ranking minority member of the House Committee on Armed Services, the gentleman from Missouri (Mr. SKELETON), for ensuring that language to increase the death gratuity and to make it retroactive to September 11, 2001, will be included in the defense authorization conference report.

Mr. Speaker, I heard from many military veterans in my district about this issue. In April, Mr. Philip Kurdulis of Worcester, Massachusetts, in particular, motivated me to fix the problems with the death gratuity. He wrote: ''Dear Representative McGovern: I was shocked to find out that the death benefit for our servicemen and women is only $6,000, and that $3,000 of that is taxed. We need to do the right thing as a country for the brave men and women who have made the ultimate sacrifice for their country. The Congress had no problem coming up with $1.6 million each for the families and survivors of the World Trade Tower victims. I do not begrudge this money; however we should do much more for the brave men and women we sent to avenge them. Deaths in our current war in Iraq and the conflict in Afghanistan have been relatively few in number. I believe it should be affordable, therefore, to increase the death benefit. I propose legislation to correct this grossly inadequate compensation. As a 10-year veteran of the Army Reserve, I ask you to 'Achieve the Honorable' in this matter.''

Mr. Speaker, I also want to thank Mr. Gary Brown, who is the director of the VA office in Marlborough, Massachusetts, who encouraged me to introduce legislation to remedy the problems with the current death gratuity, which I did on September 5 when I introduced H.R. 3019, a bill that is basically identical to the one we are considering today.

Mr. Speaker, as of this morning, 352 American military personnel have lost their lives in Iraq. At least 67 others have perished in Operation Enduring Freedom, mainly in Afghanistan. Among the fallen, nine are from Massachusetts. In the face of such loss, Members of Congress stand united in our need to express our condolences and respect to the families who have lost a loved one and to ensure that their most immediate needs are provided for. Today, the House will do the right thing by our military families and pass H.R. 3365; but, Mr. Speaker, we cannot stop there. We must make sure that this bill reaches the President's desk before we adjourn. Only then can we be sure that grieving military families will not be burdened with an unexpected tax bill.

We must also move now to complete our work on the Armed Forces Tax Fairness Act, which provides additional assistance to our uniformed men and women, especially our overstressed Guard and Reserves.

It is more than a bit ironic, Mr. Speaker, that yesterday the majority in the Committee on Ways and Means approved legislation to provide $140 billion in corporate tax breaks but cannot seem to find the time to send this very modest bill of tax relief for our military to the President of the United States.

Mr. Speaker, I would urge my colleagues to vote ''yes'' on H.R. 3365, and I call upon the House leadership to send the Armed Forces Tax Fairness Act to the President.

Mr. Speaker, I submit for the RECORD the names of the servicemen from Massachusetts who have been killed in combat.

MEMBERS OF U.S. ARMED FORCES FROM MASSACHUSETTS KILLED IN ACTION OR DIED WHILE ON ACTIVE DUTY SEPTEMBER 11, 2001–CURENT DATE

(Information may be partial or incomplete; sources: CNN ''Forces: U.S. and Coalition Casualities'' and Central Command Public Affairs Office/U.S. Department of Defense)

Staff Sergeant Joseph P. Bellavia; Age: 28; Unit: 716th Military Police Battalion, 16th Military Police Brigade, XVIII Airborne Corps, U.S. Army; Hometown: Wakefield, MA; Date and Place of Death: October 16, 2003 in Karbala, Iraq.

Specialist Matthew G. Boule; Age: 22; Unit: 2nd Battalion, 3rd Aviation Regiment, 3rd Infantry Division, U.S. Army; Hometown: Dracut, MA; Date and Place of Death: April 2, 2003 in central Iraq.

Staff Sergeant Joseph Camara; Age: 40; Unit: 115th Military Police Company, Army National Guard; Hometown: New Bedford, MA; Date and Place of Death: May 21, 2003 in an area south of Baghdad, Iraq.

Sergeant Justin W. Garvey; Age: 21; Unit: 1st Battalion, 187th Infantry Regiment, 3rd Brigade, 101st Airborne Division, U.S. Army; Hometown: Townsend, MA; Date and Place of Death: July 20, 2003 in Tallifar, Iraq.

Private First Class John D. Hart; Age: 20; Unit: 1st Battalion, 508th Infantry Regiment, 173rd Airborne Brigade, U.S. Army; Hometown: Bedford, MA; Date and Place of Death: October 18, 2003 in Taza, Iraq.

1st Lieutenant Brian M. McPhillips; Age: 25; Unit: 2nd Tank Battalion, 2nd Marine Division, U.S. Marines; Hometown: Pembroke, MA; Date and Place of Death: July 27, 2003 in central Iraq.

Captain Benjamin W. Sammis; Age: 29; Unit: Marine Aircraft Group 39, 3rd Marine Aircraft Wing, U.S. Marines; Hometown: Rehobeth, MA; Date and Place of Death: April 4, 2003 in Ali Aziziyal, Iraq.

Sergeant First Class Daniel H. Petithory; Age: 32; Unit: U.S. Army; Hometown: Cheshire, MA; Date and Place of Death: December 5, 2001 in Afghanistan.

Staff Sergeant Bruce A. Rushforth, Jr.; Age: 35; Unit: U.S. Army; Hometown: Middleboro, MA; Date and Place of Death: February 21, 2002 in the Philippines.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Missouri (Mr. SKELTON), my former colleague on the Committee on Armed Services and the ranking minority member of the Committee on Armed Services of the House of Representatives.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for his leadership on this, and my friend, the gentleman from Massachusetts (Mr. MCGOVERN), for his hard work in seeing to it this bill gets here; and I thank as well our friend, the gentleman from Texas (Mr. SAM JOHNSON).

Mr. Speaker, I rise in support of this bill, and I thank those who have offered it and have cosponsored it. The bill before us increases the death gratuity from $6,000 to $12,000; but more important, it would provide that the entire payment be tax free.

Congress first established the benefit for death back in 1908, and there is a long history of this. As a result of increasing the benefit from $3,000 to $6,000, and the way the law was written at the time, part of that remained taxable. We are now increasing this to $12,000 and making it all nontaxable.

About a month ago, I went to Iraq. I had the opportunity to see some young men and young women in uniform doing their duty. It is arduous and difficult, and I felt very proud of them. Whether they had a star on their shoulder or whether they be buck privates, they were doing masterful jobs, for which they were well trained. They are the cream of the crop of our youth in this country. We thank them for that.

Three days our group spent in Iraq, flying in and out of Baghdad from Kuwait. We had to spend the night in Kuwait, for security reasons, we were told. The second night, Sunday night, we flew from Baghdad back to Iraq, and

in the C–130 airplane there was with us a body bag carrying the body of a young soldier. It caused me to stop and think that these young Americans are literally putting their lives on the line, and the best thing we can do is to show gratitude and appreciation.

Cicero once said that gratitude was the greatest of all virtues, and I think that he was right. So how do we do that today? We do it with this bill, introduced by the gentleman from Massachusetts (Mr. MCGOVERN), the gentleman from Arizona (Mr. RENZI), the gentleman from New York (Mr. MCNULTY), and the gentleman from Texas (Mr. SAM JOHNSON). This shows gratitude to those unfortunate families that lose a loved one, and it is a good thing that we can do.

I wholeheartedly support it, both the increase and the tax benefit therefrom, because gratitude is the greatest of all virtues and this is one small way we can express it.

Mr. Speaker, I rise to support my colleagues, Mr. RENZI and Mr. MCGOVERN, in their efforts to provide a tax-free, increased death gratuity payment to survivors of deceased service members. The bill before us would increase the death gratuity payment from $6,000 to $12,000, but more importantly, it would provide that the entire payment be tax free.

Congress first established the death gratuity payment in 1908. At the time, it provided six months pay to the survivors of deceased service members. The death gratuity was necessary because there was no government life insurance program and career personnel often could not obtain or afford adequate commercial life insurance. The death gratuity payment was used to provide immediate financial assistance to families of deceased military members to meet immediate expenses.

The death gratuity program was repealed in 1917 when Congress established the predecessor to the current Dependency and Indemnity Compensation Program. However, only two years later, Congress would restore this important benefit. Over time as inflation and pay increases eroded the principle of a six-month pay payment, all survivors regardless of rank began to receive the higher payment of $3,000.

The maximum $3,000 tax-free benefit would not see a notable increase until 1991, as our Nation sent its sons and daughters in uniform to war in the Persian Gulf conflict. Congress, recognizing the sacrifices that our military families were experiencing, doubled the death gratuity payment from $3,000 to $6,000. Unfortunately, the additional increase of $3,000 was determined to be a taxable benefit.

Today, over 120,000 American troops are back in the Persian Gulf to help liberate the Iraqi people. Since the start of the Iraq conflict, over 229 service members have given their lives in combat and another 127 have been killed in the line of duty. In addition, 31 service members have lost their lives in combat in Afghanistan in Operation Enduring Freedom, and 58 Armed Forces personnel have been killed in service to their Nation.

We have a moral obligation to provide assistance to these families and help them through this difficult time. Increasing the death gratuity to $12,000 for these military families, and those who may lose their service member in the war against terrorism, will provide immediate financial assistance to families in those first turbulent and stressful weeks.

As my colleagues are aware, the conferees to the defense authorization bill are also considering a conference provision that would increase the death gratuity to $12,000 for survivors of deceased service members.

While I am relatively confident that provision will be accepted by the conferees, what is really needed is to make this payment tax-free. Which is why I am pleased that my colleagues from the Ways and Means Committee are here today to help ensure that the death gratuity payments paid to military families are tax-free. These families should not have to worry that this additional money, provided to them in a time of need, may end up being a financial hardship at the end of the year.

I urge my colleagues to recognize the sacrifices and dedication of those who serve in uniform, and support this effort to provide these families the additional financial resources to help them during a heartbreaking and distressing time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Missouri for his comments.

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

Mr. MCNULTY. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), my friend and colleague.

Ms. WOOLSEY. Mr. Speaker, yesterday the 352nd and 353rd American servicemembers were killed since the start of the war in Iraq. That means almost twice as many soldiers have died since the President declared an end to major fighting operations than during the 2 months of actual war. Something is drastically wrong here.

We are not adequately showing our gratitude to those who have sacrificed for us. As a result, 353 of our soldiers have lost their lives, which speaks to the administration's haphazard planning for the postconflict phase in Iraq, costing those 353 Americans their lives and thousands who have been wounded.

We must support our brave men and women stationed in Iraq and Afghanistan, and we must also make a commitment to support the widows and widowers of those soldiers who are killed halfway around the world. And we can do that by passing H.R. 3365, doubling the amount paid to survivors of service men and women killed on the battlefield from $6,000 to $12,000, at the same time making this benefit completely tax free. After all, taxing families of patriots does not seem very patriotic to me.

It appears this bill has strong bipartisan support, and yet we have not always been so dedicated to our soldiers. On October 20, here in this House, less than 2 weeks ago, this body voted on an amendment to the $87 billion supplemental bill that would have added $1,500 as a bonus for troops serving in Iraq and Afghanistan. Unfortunately, this amendment failed by a vote of 213 to 213, with most Democrats voting in favor of the bonus and most Republicans voting against the bonus.

The Republican administration thrust upon us this budget-busting $87 billion supplemental spending bill for Iraq and Afghanistan, and then the House had the audacity to vote against the bonus for our troops; our troops who are in harm's way; our troops who have been wounded, and whose lives will be changed and altered forever; and our troops who have given up their lives for this country.

We must support our troops. We must compensate them for their service to this country should disaster strike. As any pundit would have predicted, and which has happened 353 times to date in Iraq in the last 7 months, we must support the families of those who make the ultimate sacrifice. Mr. Speaker, this is the very least we can do. To that end, I am proud to support H.R. 3365.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume. I join with the others in commending the gentleman from Arizona and the gentleman from Massachusetts for their sponsorship of this bill. I thank the ranking minority member of the Committee on Ways and Means, the gentleman from New York (Mr. RANGEL), for designating me to manage the bill on the Democratic side.

As I said in the beginning, this is a minor tax benefit that we are giving to those who have made the supreme sacrifice. I wish we were doing more, but I strongly agree with my friend and colleague, the gentleman from Texas, that this is long overdue. We need to do this with dispatch, and we need to do it for the families of those who have lost their loved ones.

One of the fundamental principles is that ''life is to give, not to take.'' Sitting across from me in this Chamber is a gentleman who has given a great deal throughout his life, and especially during his military service. Veterans of this country and the families of those who have lost loved ones could have no better friend than the gentleman from Texas (Mr. SAM JOHNSON). He is one of the reasons why, when I get up in the morning, the first two things I do are to thank God for my life and veterans, like the gentleman from Texas, for my way of life.

I urge all of my colleagues to support this bill.

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

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

Mr. Speaker, I thank the gentleman from New York for his kind words and support, and the support of all the Democrats, which has happened in this House previously.

Mr. Speaker, the House has acted repeatedly on this issue. The Committee on Ways and Means marked up a similar bill in the committee on February 27. That has been a long time ago.

□ 1415

In the full House we passed a similar bill on March 20 by a vote of 422–0. An amended version of this bill then passed the Senate by a vote of 97–0, but it did not get out of conference. The House passed the concept again on April 9 by voice vote, so I guess we are just having a hard time keeping this bill narrow enough to get it enacted. It is so narrow now, I do not think we could squeeze it any tighter.

I do not believe the problems with this bill rest on this side of the Capitol. Unfortunately, House rules do not allow me to talk about where the roadblocks are to enactment, but it is not on this side of the Capitol.

I have a provision regarding military academy scholarships and college savings plans that I would like to get enacted this year, but if it would mean holding up, for even one more day, the elimination of this immoral tax on military death benefits, I would forgo having any other provisions added.

Frankly, I do not care what the reasons are for not having this concept enacted into law, it is just wrong to tax military death benefits. And as the gentleman from New York (Mr. MCNULTY) pointed out, it is a minor tax bill. Let us pass this bill today with another strong vote and get the job done before the end of this year. It is the least we can do for the families who have lost a loved one in service to their country. It is for America. We need to do it for America.

Mr. RENZI. Mr. Speaker, today the House is considering H.R. 3365, the Fallen Patriots Tax Relief Act. I am moved by the bipartisanship that has carried this bill through the House. The outstanding leadership of my colleagues, Mr. JONES of South Carolina and Mr. MCGOVERN of Massachusetts, illustrates the dedication of this Congress to support service members and their families who have sacrificed so much for this great country. In addition, I want to thank the gentlemen for their guidance on this bill and for their eager cooperation in drafting H.R. 3365.

This legislation will increase the death gratuity payment to $12,000 and will return the payment to its historical tax-exempt status. This payment must remain a gift to surviving families as a gesture of a grateful nation that dignifies their ultimate sacrifice of their loved ones. At a time when our nation is sending its sons and daughters to war, it is unconscionable to ask their families to shoulder a tax burden on a gift of thanks intended to be free from taxation. It is because of three of my constituents who gave their lives to defend our freedom that I became involved with this legislation.

Spencer Karol, from Holbrook, Arizona, was a 20-year-old Army Specialist with the 165th Military Intelligence Battalion. He enlisted in the Army with two friends and was sent to Iraq. Specialist Karol died when his vehicle was hit by an explosive device on patrol at Ar Ramadi looking for enemy combatants on October 6, 2003. This legislation would give Specialist Karol's mother the ability to meet the funeral expenses of burying her eldest son.

Specialist Lori Piestewa, was assigned to the 507th Maintenance Division, and was the first Native American woman killed in action. Under current law, Lori's family must pay taxes on the death benefit they have received. This legislation will correct this injustice.

Alyssa Peterson, a 27-year-old Army Specialist, was an athlete and graduated at the top of her class. She was fluent in several languages and gracious to her family and friends. I would like to share with you an essay that this precocious young woman wrote when she was a fifth grade student at Sechrist Middle School, in Flagstaff Arizona. She wrote:

What is an American Patriot?

I believe that an American Patriot can be anyone who lives in America. I think that no matter what anyone does with their time, they can be a patriot each day. To be a patriot you need to be a loyal American. You need to stand up for what is right. You need to be the best person you can be.

A patriot needs to help America be a better place to live. Cleaning up litter is being patriotic. Obeying traffic rules is being patriotic. Helping our neighbors and giving of ourselves is being patriotic. Participating in your school activities is being patriotic, just like adults participating in voting for our government leaders and laws is patriotic. A patriot obeys all the laws of the land.

Patriotism is an attitude which shows up in our everyday actions. No one needs to wait to be a patriot.

I commend Alyssa's words to your attention. It is now time to pass this necessary legislation and pay proper tribute to those who have served our nation.

Mr. SOUDER. Mr. Speaker, I come before you today in support of H.R. 3365, the Fallen Patriots Tax Relief Act. While there has been debate over how strong our national defense should be in order to preserve the freedom of others, I think you will find that everyone in this chamber is in agreement when it comes to the treatment of our fallen soldiers and their families. This bill would be an invaluable way of expressing our country's gratitude to the brave men and women who have died giving their last full measure of devotion.

In March of this year, Marine Lance Corporal David K. Fribley, from Atwood, Indiana, and seven of his fellow Marines, were killed in the opening march of Operation Iraqi Freedom. While the gratuity that is owed to the Fribley family has historically been exempt from taxation, an oversight in the tax code after 1991 left half of the $6,000 gratuity subject to taxation. Families who have had to suffer because of the loss of a loved one are now being asked to pay taxes on what was set up to be a one time, tax-free gift. It is for this reason and for families like the Fribley's that I pledge my full support to this bill. If adopted, this legislation would increase the gratuity payable to survivors of deceased members of the armed forces to $12,000 retroactive to September 11, 2001, and would make the payment fully tax-exempt.

As we carry on this struggle against evil, it is a most tragic fact of war that we are sure to lose more young people like Lance Corporal David Fribley. As they courageously make the sacrifice for our liberty and the safety of our world, we must never fail to honor their memory and see that their loss has not been in vain.

Mr. ORTIZ. Mr. Speaker, the bill we pass today is indeed the least we could possibly do for the young men and women who have carried our battle to the enemy in the global war in which we are engaged. We should be ashamed that the Congress is only now providing enhanced civil and economic protections for military personnel on active duty.

At a time when we are asking our military to carry an incredibly heavy burden, the Congress is deeply concerned about making life as easy as possible for our servicemembers and their families, and this bill is the way to begin.

While our troops are on duty overseas and elsewhere, separated from their families and—in the case of Guard and Reserve troops called up—struggling on less salary than they make in the civilian world, we are hopeful this legislation will help those military families better cope with economic challenges.

This bill would increase the death gratuity payable to the families of deceased members of the Armed Forces and to exclude such gratuity from gross income. The intent is to assist surviving family of active duty service members with immediate expenses following notification of the death of a loved one.

This bill would double the death gratuity from $6,000 to $12,000 and apply it retroactively to all deaths after September 10, 2001. The bill would also exempt from taxation the full $12,000 payment. Currently, only $3,000 of the current payment of $6,000 is exempt from taxation.

Given our experience here in South Texas in helping families who have lost loved ones, I can tell you that this Congress can do much more financially to ease their suffering, but I'm pleased that at least we are no longer taxing their death benefits.

Mr. ALEXANDER. Mr. Speaker, I rise today in support of H.R. 3365/H.R. 3019 (Renzi/McGovern), the Fallen Patriots Tax Relief Act. I am a proud cosponsor of both of these bills because they honor our fallen service men and women. This bill doubles the military death benefit paid to survivors of military personnel killed in the line of duty from $6,000 to $12,000. It also makes the $12,000 death benefit tax-free. The change would be effective retroactive to deaths occurring on or after September 11, 2001. (Under current law, the military death benefit is $6,000, of which $3,000 is subject to federal tax). As a nation and as Members of Congress, we need to do the best we can for the families of the brave men and women who have made the ultimate sacrifice for our country's freedom.

For the last several months, I have supported measures that give our armed forces the resources necessary to provide our soldiers and their families with a better quality of life. I have supported restoring the child tax credit for the families of 260,000 children of active duty military personnel. I also supported a provision on the house floor to add a $1,500 bonus for troops serving in Iraq and Afghanistan. Unfortunately, this provision failed on a tie vote. When Democrats offered to transfer $3.6 billion from Iraqi reconstruction to providing more support for our troops—including important quality-of-life measures such as improved health care benefits I voted yes because I believe that we should do all we can to protect and care for our men and women in uniform. H.R. 3566/H.R. 3019 (Renzi/McGovern) is no different. Support for our troops is a priority for me and I am proud to support this benefit for their families.

I am glad that the Renzi/McGovern bill makes the military death benefit tax-exempt. It is wrong that one-half of the military death

benefit is currently subject to taxation. Families of patriots should not be penalized on a benefit meant to show the nation's gratitude for their sacrifice. We must restore the original intent of this benefit and not unduly burden families with an unexpected tax bill. The death benefit paid to the survivor of a military member has historically been exempt from taxation. An oversight in the tax code after the gratuity was increased to $6,000 in 1991 left half of this payment subject to taxation. Only the passage of H.R. 3566/H.R. 3019 (Renzi/McGovern) will remedy this unfair taxation problem for our military families.

I commend my colleagues Representatives MCGOVERN and RENZI for sponsoring this important measure, and I look forward to supporting this bill and supporting our troops.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in support of H.R. 3365, the Fallen Patriots Tax Relief Act. It is important that we get this bill enacted into law right away. It is unconscionable that a knock at the door by a military chaplain is followed by a knock on the door from the tax man. But sadly, this is the case.

I had the distinct honor of serving my country in the Air Force for about 29 years. So my family and I know something about military life. And my wife, Shirley, has said that one of her worst moments was when the military chaplain pulled up in front of the house after I was shot down in Vietnam, and her heart just stopped. She didn't know what they were going to say, but she knew it was not going to be good.

I can't imagine the unspeakable despair of a family who just lost a loved one in service of their country, only to be followed up by the horror of a visit from the taxman. That is just wrong. So this bill fixes that. Let us change this law today.

This bill permits the entire amount of the death benefit gratuity to be tax free. It also increases the amount of the death benefit to $12,000, which is more in line with the value of these benefits when they were initially created. This is a clean bill. There is absolutely no good reason for it to get fouled up in the same legislative backwater that has stalled three previous versions of this bill.

You know, there a lot of good stories out there that don't get reported. For example, I've heard of a company of marines that left Iraq this summer without one casualty. That's great news. But, more common is the news we see on T.V. As President Bush says, ''Iraq is still a dangerous place.''

Sadly, nearly every day we hear of deaths in Iraq and other military hot spots around the globe. In the two years since 9/11 it has been increasingly important that we eliminate the unfair, immoral tax on the death benefit a service member's loved ones receive from the Armed Forces. In fact, this bill reaches back to that terrible day and also applies to families who will be receiving a visit from a chaplain in the future. I find it shameful that we continue to tax one-half of the death benefits paid to families.

This must change before the end of the year. It is the least we can do. These families have given the ultimate sacrifice for our country. We must not take any more from them.

Ms. SOLIS. Mr. Speaker, I rise in strong support of H.R. 3365, the Fallen Patriots Tax Relief Act.

The Fallen Patriots Tax Relief Act is a positive step in honoring the men and women of the Armed Services, who have made the ultimate sacrifice and given their lives while serving our country.

Unfortunately, the current death gratuity paid to the survivors of a military member is not adequate to cover funeral expenses, leaving them with the extra burden of covering these unexpected costs. The vast majority of the men and women in uniform come from hard working low-income backgrounds, whose families should not be expected to cover these costs.

On October 13, 2003, Private Jose Casanova, Jr. became the second constituent of mine to lose his life in Iraq.

The financial assistance provided to the Casanova family for burial expenses was not sufficient. The family still had to pay money from their own funds despite having the funeral home and the local police department waive numerous fees and provide some services for free.

This situation is not acceptable. Military families, like the Casanova family, deserve to be relieved of unnecessary financial costs associated with their fallen family members' deaths. This is the least we can do as a country.

In honor and in memory of our fallen patriots, I strongly urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and pass the bill, H.R. 3365.

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. SAM JOHNSON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. 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. 3365.

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

There was no objection.

ENCOURAGING PEOPLE'S REPUBLIC OF CHINA TO FULFILL COMMITMENTS UNDER INTERNATIONAL TRADE AGREEMENTS, SUPPORT UNITED STATES MANUFACTURING SECTOR, AND ESTABLISH MONETARY AND FINANCIAL MARKET REFORMS

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 414) to encourage the People's Republic of China to fulfill its commitments under international trade agreements, support the United States manufacturing sector, and establish monetary and financial market reforms.

The Clerk read as follows:

H. RES. 414

Whereas United States investors and exporters to the People's Republic of China recognize the opportunity of doing business with China but have raised serious concerns that many of the commitments China made upon joining the World Trade Organization have not yet been implemented or implementation has been inadequate;

Whereas market barriers and unfair trade practices continue to exist, including high tariffs, subsidies, technical trade restrictions, counterfeiting, tied trade, violations of intellectual property rights, and non-market-based industrial policies that limit United States exports;

Whereas increases in global trade will lead to faster growth of the United States economy and an improved quality of life for workers in the People's Republic of China;

Whereas China is one of the fastest-growing economies in the world and an important expanding market for United States exports;

Whereas China has made progress in implementing the commitments that it made upon joining the World Trade Organization, including the required reduction of its tariffs on many industrial goods of importance to United States manufacturers;

Whereas China must move more quickly to implement its World Trade Organization commitments fully and to remove many market access barriers;

Whereas the currency of the People's Republic of China, the renminbi, has been fixed relative to the United States dollar since 1994;

Whereas a systemically misvalued currency by any large country can have damaging trade-distorting effects on both that country and its trading partners by decreasing the price of exports of products of that country and increasing the price of imports to that country;

Whereas China's trade liberalization will cause economic imbalances in its market and world markets unless China also implements capital account liberalization;

Whereas the market-based valuation of currencies is a key component to resilient global trading systems by enabling smoother transitions to reflect underlying economic fundamentals in a country;

Whereas China's substantial foreign reserves reduce China's susceptibility to currency crises and, therefore, the need for continued use of a fixed currency;

Whereas the International Monetary Fund (IMF) has advised China to adopt a more flexible exchange rate policy, and has indicated that such a change would not have serious adverse consequences for that country, although IMF officials have expressed concern about the weakness of China's banking system and that it may not have the ability to move quickly towards a floating rate;

Whereas the Joint Ministerial Statement in September 2003 of the Asia-Pacific Economic Cooperation Finance Ministerial Meeting ''emphasized the importance of accelerating structural reform, adopting macroeconomic policies that promote sustainable growth, supported by appropriate exchange rate policies that facilitate orderly and balanced external adjustment . . . [and] noted a view expressed at the meeting that more flexible exchange rate management, in some cases, would promote this objective'';

Whereas the Group of Seven Finance Ministers and Central Bank Governors in their September 2003 Communique have emphasized that ''more flexibility in exchange rates is desirable for major countries or economic areas to promote smooth and widespread adjustments in the international financial system, based on market mechanisms'';

Whereas China's central bank governor has stated that the value of the renminbi will eventually be determined by market forces rather than be fixed to the dollar but has not given any indication of when this change in policy will occur;

Whereas China recognizes that it is in its own interest to reform its exchange rate regime and its banking system in order to establish a resilient economy and control its rate of economic expansion;

Whereas China is taking concrete steps to move to a more flexible exchange rate regime by increasing private ownership of its banking system and by establishing a technical working group on a range of financial sector issues, including exchange rate policy;

Whereas manufacturing is important to the health of the United States economy, generating high quality products, personal opportunity, productive careers, wealth, high standards of living, and economic growth;

Whereas the manufacturing sector is the leading source of new patents and innovation in the United States economy, which helps drive economic growth at home and abroad;

Whereas the manufacturing sector faces the most intense global competition in United States history, making it difficult for many firms to operate profitably and earn a sufficient return on capital invested, and manufacturing costs continue to increase for many reasons, including governmental actions; and

Whereas the manufacturing sector in the United States seeks a global level playing field for competition and markets: Now, therefore, be it

Resolved, That—

(1) the House of Representatives commends the President and his Administration for continued efforts to engage the Government of the People's Republic of China directly and to encourage China to fulfill its commitments as a member of the World Trade Organization;

(2) the House of Representatives encourages the People's Republic of China to meet its commitments to the trade rules and principles of the international community of which it is now a member;

(3) the Chinese economy would benefit from an exchange rate determined by the market in order to avoid artificial rates that can lead to market and trade distortions;

(4) the House of Representatives will continue to monitor closely and work with the Administration to encourage China's efforts to modernize its financial system, establish a more flexible exchange rate, and comply with its trade agreement obligations;

(5) the House of Representatives urges the Administration to continue its intensive discussions with officials from the Government of the People's Republic of China to facilitate moves towards a market-based valuation of the renminbi, relaxation of capital controls, and reform of its banking sector; and

(6) manufacturing is an important sector to the United States economy and, therefore, the United States Government should intensify efforts to promote innovation, reduce costs, and level the international playing field for this sector.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. ENGLISH) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

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

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

Mr. Speaker, currently before the House is House Resolution 414, to urge China to live up to its international obligations which it has agreed to undertake upon joining the World Trade Organization in 2001. We consider this with a sense of urgency as we are running an historically large trade deficit and an enormous bilateral trade deficit with China.

Mr. Speaker, our trade deficit with China has doubled since 1998, and is likely to exceed $120 billion this year. It has become the single largest bilateral trade deficit in the world. And the most conspicuous feature of our lopsided trade partnership with China is China's state-sponsored mercantilism which has cost this country millions of manufacturing jobs.

When the Clinton administration embraced China's entry into the WTO, many of us hoped that China would adopt the disciplines of the global rules-based trading system. Unfortunately, we have been sorely disappointed. China continues to flout global trade rules at the expense of our manufacturers and workers. This cannot be allowed to stand. Americans can compete with any economic power in the world, provided there is a level playing field.

Mr. Speaker, our resolution would: One, show broad support for the administration's efforts to get China to abide by its international trade obligations; two, put Congress on record urging China to follow global trade rules; three, commit to working with the administration to encourage China to modernize its financial system and allow a flexible exchange rate; four, urge the administration to continue intensive discussions with Chinese leaders towards establishing a market-based valuation of their currency; and, five, state that the United States Government should intensify efforts to promote innovation, reduce costs, and level the playing field for the manufacturing sector.

Mr. Speaker, here are the facts, the IMF, APEC, and the group of seven finance ministers all have stressed the importance of allowing for greater flexibility in exchange rates. In the last month, every top official in the administration's economic and trade team, including President Bush himself, has visited China and implored its leaders to bring its trading practices up to global standards and allow their currency value to be dictated by the market.

Still, China's leaders have continued to stall. Our message today is the same as the administration's. They have told China time and time again if they want to have a healthy trade relationship with the United States, then they must be prepared to follow the rules. The message we are carrying today is among the most important that Congress will communicate this year. It is essential for the economic future of the next generation, for the future of good paying jobs in places like my home in northwestern Pennsylvania where we make things for a living, that we get this right.

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

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

Mr. Speaker, this resolution is a weak resolution. It does not suggest any specific actions, and this is consistent with the way that this administration, the Bush administration, has approached trade issues with China.

It is not as if these issues suddenly appeared. They have existed, they have persisted for several years. And there have been some specific tools available for the administration to use. They have not used some of these tools, and others they have not used well.

These are the tools. First, the annual review process within WTO, this annual review process was called for in the U.S. PNTR resolution. It was specifically called for. It was worked for within the WTO, and it was in the final agreement with China when they acceded to the WTO. But the U.S., in this process, did not press China to act on major issues. China said that they did not need to respond in writing to the issues that were raised in the annual WTO review. This has diminished the importance of this significant mechanism.

Secondly, the PNTR legislation that we passed also required an annual report by the administration on China's compliance with its WTO commitments. That report was weak, and it did not press China on the key issues of trade.

Third, the USTR has not used, at any point, formal consultations in any of the sectors or on any outstanding problem, either through use of section 301 or directly in the WTO, whether the outstanding issues related to agriculture, for example, corn or cotton or fertilizers; in the manufacturing sector, whether it was semiconductors, heating and air conditioning, auto or auto parts; or whether it was services, including financial services. There was really little effort, in fact none, in formal consultations relating to the distribution requirements that were clearly laid out in China's WTO accession. And there has not been use of the formal consultation process relating to China's undervalued currency, and there has been none relating to intellectual property.

This administration has not used the specific China safeguard that we worked so hard to place in the China PNTR legislation. Instead, the administration turned down the first two cases that were brought before it. So in a word, instead of taking the lead, getting out in front of the rising concern

about China, the Bush administration left a vacuum, and this vacuum has been filled by rhetoric, including that coming from the administration.

Mr. Speaker, this resolution is essentially rhetorical. It does not call for any specific action. It talks instead about commending the administration when I think that there were serious omissions of opportunity, and then it says it encourages in the second paragraph. And then as to currency, it says the Chinese economy would benefit. In the fourth, it says the House of Representatives will continue to monitor. In the fifth it says the House of Representatives urges the administration to continue intensive discussions. So as I said, this resolution does not call for special or specific action.

Mr. Speaker, I just want to say to the gentleman from Pennsylvania (Mr. ENGLISH), and especially to the administration, that no one should interpret a vote for this resolution as an endorsement of the way this administration has handled the growing issues with China.

I hope there will be other resolutions. We are going to have a hearing in the Committee on Ways and Means beginning tomorrow on China, and I guess it will continue over to Friday. This will be an opportunity for us to probe the places where there have been missed opportunities, the places where there need to be specific actions, the place where we can substitute, for rhetoric, something very specific which will lead, I hope, to actions relating to the trade relationships between our two large and important economies.

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

Mr. ENGLISH. Mr. Speaker, I yield myself 15 seconds.

First, to respond to the gentleman, I point out that this administration has been willing to take on China on these issues, particularly on the currency manipulation, in a way that the last administration certainly did not. At a time like this, when the administration is directly involved with negotiations with the Chinese, this is precisely the kind of resolution that is not only appropriate, but is important to provide to show support.

Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. BALLENGER) who has been a leader in the fight on Chinese trade issues.

□ 1430

Mr. BALLENGER. I thank the gentleman for yielding me this time.

Mr. Speaker, I believe that the Chinese currency is undervalued by some 40 to 50 percent and has been for years. A 40 percent discount for China is unacceptable. American companies deserve a chance to fairly compete on a level playing field. Chinese companies do not have governmental regulations like EPA or OSHA, they do not have minimum wage laws or workplace safety mandates, and they do not have to make a profit.

It goes without saying that China has emerged as the biggest threat to our manufacturing base, and it is not because they make things better than we can, because they cannot. It is because China is cheating the system. China ships textile and apparel goods through Vietnam to avoid textile quotas. That is cheating. China's cheating is scaring all textile producing countries. In 2005, textile quotas disappear. Central American nations are worried. The South Korean hosiery industry is worried. Everybody is worried because we all know about China's cheating and predatory pricing practices.

This cannot continue. That is why we are standing up for our textile workers against China. The Chinese are ignoring international rules and putting millions of hardworking Americans out of jobs. We are standing up for U.S. workers by calling on China to fulfill its commitments under international trade agreements and to establish monetary and financial market reforms. Other countries and international institutions are calling on China to adopt a more flexible exchange rate policy. The market-based valuation of currencies is a key component in the global trading system.

As Secretary Evans said earlier this week on his travels in China, ''We expect the markets to reflect the true value of currency.'' I applaud the administration for their efforts to help U.S. companies better compete, for calling on China to quicken the relatively slow pace of reforms thus far. Further action must follow.

In closing, I urge my colleagues to support H. Res. 414 as a means of putting the Chinese on notice that the Congress is tired of the $103 billion trade surplus. We will expect them to live up to their commitments and to open their markets to U.S. goods and services.

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, working families in my home State of Michigan and our Nation continue to face mounting job losses and a sagging economy. Our international trade deals have left our workers behind. Nowhere is this more obvious than with China. Since March of 2000, we have lost 2.6 million manufacturing jobs while at the same time our trade deficit with China has ballooned.

While House Resolution 414 is a step, we need real action from Congress and this administration. We need to revoke PNTR with China and start over. We need legislation encouraging American companies to keep jobs here rather than sending them overseas. We are at the crossroads to determine our Nation's place in the world. Do we stand by and watch while our jobs go overseas, while our families suffer at home and while our trade deficits rise? Or do we support our working families' needs, keep good manufacturing jobs in our industrial heartland, and get our economy back on its feet? I think the answer is very clear, Mr. Speaker.

Mr. ENGLISH. Mr. Speaker, I yield 1¼ minutes to the gentleman from Georgia (Mr. GINGREY), a distinguished advocate of the interest of American workers.

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

Mr. GINGREY. Mr. Speaker, I want to thank my colleague from Pennsylvania for introducing H. Res. 414. I think it is a positive step in addressing our trade discrepancies with the People's Republic of China.

My district of western Georgia has a rich history of manufacturing textiles, from Milliken and Company, Incorporated, and Bon L. Manufacturing in LaGrange, Georgia, to Mount Vernon Mills in Trion, Georgia, which has been in business since the 1840s. The textile industry has provided good-quality jobs for the citizens of Georgia's 11th Congressional District, with good health care benefits and good retirement. I make this point because people in my district have established a culture and a community around the textile industry.

I am deeply concerned that our country is not properly enforcing our trade policies which are slowly eliminating an entire way of life. When ratifying trade agreements, it is important to encourage both free and fair trade. China is not playing fair because they are manipulating their currency in order to gain an unfair advantage. This currency manipulation is costing people jobs. Between March 2002 and March 2003, 50 textile plants have closed and 40,000 people have lost their jobs, including 100 jobs just last week in Trion, Georgia.

We cannot afford to lose jobs, especially due to the unfair practices of currency manipulation by the Chinese Government. Mr. Speaker, I encourage the passage of House Resolution 414 to encourage China to comply with their trade obligations.

Mr. LEVIN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. I thank my friend from Michigan for yielding me this time.

Mr. Speaker, I rise in support of this legislation, but I have to say that I think it will not do much good and that I think in many ways it deflects attention from the most important issue, which is not asking the Chinese to make changes in their currency but in fact asking the United States Congress and the President of the United States to make changes in our disastrous trade policies.

The bottom line is that right now in America, manufacturing is in a state of collapse. We have lost almost 3 million manufacturing jobs in the last 3 years. We are seeing our economy move from a General Motors economy to a Wal-Mart economy where workers are now earning poverty wages with minimal

benefits. There are a number of reasons for that, but one of the reasons is that our trade policy with China, with Mexico and other countries has failed. It is time to understand that and it is time to redo that.

The bottom line is that American workers should not and cannot be asked to compete against desperate people in China who work for pennies an hour. Does anyone here think that it makes sense to tell a manufacturing worker in America who earns $16 an hour, who has decent benefits, that he has got to compete against someone in China who makes 30 or 40 cents an hour, who if that person stands up and tries to form a union might get thrown in jail?

Is it fair to ask American manufacturers to compete against companies in China where there are virtually no environmental regulations and in a country which is becoming one of the most polluted countries in the world?

The reality now is that in the midst of a $435 billion overall trade deficit, we have a $120 billion trade deficit with China alone. The National Association of Manufacturers tells us that in the next 5 years that trade deficit could well grow to over $300 billion. Yes, we make exports to China but for every $1 that we export, we import $6.

The reality now is that we are hemorrhaging decent-paying jobs because, to a large degree, of a failed trade policy. The Republican leadership and many Democrats are going to have to own up to it. You have got to come forward and say to the American people, yeah, you think it is great for American workers to compete against people who make 30 cents an hour. You are going to have to tell small American manufacturers who want to do business in this country, who are patriotic, who want to employ American workers, that they are no longer going to have to compete against those companies who sell their products back in this country for a fraction of the price that American manufacturers can produce that product for.

So I say to my friend from Pennsylvania, your idea has some merit, but you are not getting to the root of the problem. The root of the problem is that one of the reasons that we are hemorrhaging decent-paying jobs is because of a failed trade policy, and that is why I have introduced legislation, H.R. 3228, which is winning bipartisan support, which says once and for all let us repeal permanent normal trade relations with China, let us develop a new trade relationship with that country which works not just for the large multinationals but works for the average American workers.

I very well remember the debate, as many of you do, about all of the advantages that PNTR with China would bring. We are going to bring some of those quotes back onto the floor of the House, because they were wrong. All of those people who told us about the jobs that were created were wrong. We are losing jobs. We have got to repeal PNTR with China.

Mr. ENGLISH. Mr. Speaker, it is a privilege for me to yield 2 minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for his efforts on this.

Coming from a State that depends on manufacturing, and we have lots of small manufacturing in our great State, this is one hurdle that they cannot get over. They are frequently talkers. When I get these small manufacturers, 50, 75, 100 folks in these small manufacturing facilities who talk about and embrace the ideas of free trade, they do not want to back away from that. They think it is good and it is helpful and it will produce jobs in America. But it has to be fair.

One of the things that we have seen is that China is not willing to embrace the tenets of fair trade. Currency manipulation is the greatest of all of its evils standing up front. What it does is it artificially leaches off the value of the dollar, automatically making any deal put together by an American manufacturer uncompetitive. That is unfair. What they are saying is, hey, don't do away with free trade, but let's embrace the tenets of fair trade and help us eliminate those artificial barriers, and we will compete with our great labor force.

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

Mr. ROGERS of Michigan. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, the gentleman talks about the advantages of free trade. Does he think American workers can and should compete against people who make 40 cents an hour and go to jail when they try to form a union?

Mr. ROGERS of Michigan. As the gentleman may understand, there is a greater circumference of competition in every business and it means more than just labor costs. It is all of the costs that go in, including the quality of the production. When you talk to American manufacturers, they will tell you they can compete if these artificial barriers are gone. We ought to stand tall. I appreciate the administration's efforts to this point. We appreciate the things that they are doing. This resolution is an important step, by saying, we are going to give you every tool in the tool box. We are not going to tell you which one, but we are going to give you all of the tools to go after unfair barriers, just like currency manipulation.

Let us stand tall for what the administration is doing and what we can do when we stand together for embracing jobs and competitiveness in American manufacturing.

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

Mr. ENGLISH. Mr. Speaker, I yield 1½ minutes to the gentleman from North Carolina (Mr. HAYES), a distinguished advocate of fair trade.

Mr. HAYES. I thank the gentleman from Pennsylvania for his excellent leadership and guidance here.

Mr. Speaker, today I rise in strong support of this resolution. This legislation is going to send a much-needed and unmistakable signal to China that we expect to see trade and monetary reforms and that we expect them now. This will make it clear that there will be retribution and retaliation if China does not abide by the rules. We have lost too many jobs and too many companies have been hurt because of unfair Chinese trade practices and China's fixed currency structure.

Since 1994, China has devalued its currency 30 percent despite enormous economic growth. It is clear they continue to peg their currency to the U.S. dollar to create an unfair advantage for China at the expense of our American manufacturers and our own workforce. This Congress and the administration must continue to stress to China that their economy will benefit from a market-based exchange rate. It is in China's best interest to create a more flexible currency in order to create a strong and stable economy for the future.

Specifically, this resolution states that this body urges the administration to require that China honor the commitments they made upon joining the WTO, move toward a more flexible rate of exchange, and the U.S. Government should focus on efforts to create fairness and equity in the manufacturing sector. Manufacturing and textile jobs specifically have taken a massive hit in both loss of jobs and businesses due to unfair trade practices by China and their fixed currency. In fact, during the past decade, the U.S. textile sector has been particularly hard hit, losing 700,000 jobs. Without fairness for our workers, businesses, textiles and manufacturing, the demise of our manufacturing sector will continue to take place all over the country.

I am pleased to see that Secretary Snow has brought up the issue during his recent visit to China. I am also encouraged by reading that Secretary Evans has gone to China and made a speech there saying the American market will not remain open to Chinese exports unless China's markets are equally open to our markets.

Mr. Speaker, I urge the passage of the resolution.

Mr. LEVIN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. BECERRA), a gentleman who is very active on these issues as a member of the Committee on Ways and Means and its Subcommittee on Trade.

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

Mr. Speaker, House Resolution 414 sends a message to China. But if this is as strong a message that we can send to China, we are in trouble. We could

do much better than this. We can send a message that is very clear and very responsible about what we would expect of any trading partner, of anyone who wishes to be treated with dignity when it comes to trade with us as well.

In the last 3 years, Mr. Speaker, Americans have lost 3.2 million jobs; 2.5 million of those 3.2 million jobs have come from the manufacturing sector.

Now, if it does not hurt enough, let me just give you some numbers. California, almost 300,000 Americans without jobs as a result of the manufacturing sector losing them; Illinois, 125,800 jobs lost in the last 3 years, according to the September 2003 job numbers; Indiana, 67,000; Michigan, 127,000 Americans who have lost their jobs; New York, 132,000; North Carolina, 145,000 Americans without jobs in the manufacturing sector; Ohio, 151,000 jobs lost for Americans; Pennsylvania, 132,000 jobs lost; Wisconsin, 73,000 jobs lost to Americans in the manufacturing area, many of these going to countries like China.

On top of that, today we are saddled with a national debt of more than $3.3 trillion. This year's budget deficit alone, $370 billion. Next year, we are told our budget deficit will probably reach $500 billion. In each case, these are record deficits for this country.

Our trade deficit, just in what we do globally in trade with other countries, $482 billion in 2002. That is how much we were spending more by buying goods from other countries than they were buying from us. And if we keep on that same pace in 2003, we are going to have an even larger trade deficit with the world.

How much of that comes from China? Well, this past year alone, $103 billion in deficit trading with China, and at the end of this year it will probably be at about $115 billion that we will have spent more in purchasing goods from them than they will have spent in purchasing goods from us.

This week Warren Buffet, one of the wealthiest men in America, said our country is like a rich family that possesses an immense farm. ''In order to consume 4 percent more than we produce,'' which is in essence what our trade deficit means, we are consuming more than we are producing, ''we have been both selling pieces of the farm and increasing the mortgage on what we still own.''

Mr. Buffet said that our trade deficit has worsened to the point that our country's net worth is being transferred abroad at an alarming rate. He predicts that foreign ownership of America's assets will grow by about $500 billion a year. That translates to about 1 percent annually of our wealth being placed in foreign hands.

Mr. Speaker, something needs to be done, and H. Res. 414 is not enough. It is time for us to investigate what the Chinese are doing, it is time for us to take safeguards to protect American industries and American jobs, and it is time for us to use the powers that we have under the Trade Act to investigate whether China is complying with its obligations under the World Trade Organization's regime. It is time to do it. Just talking about it will not make it happen. Let us take some action. House Resolution 414 may be a start, but it certainly is not enough.

Mr. ENGLISH. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules and one of the most distinguished advocates of free trade in the Chamber.

Mr. LEVIN. Mr. Speaker, I yield 1 minutes to the gentleman from California.

The SPEAKER pro tempore (Mr. TERRY). The gentleman from California (Mr. DREIER) is recognized for 4 minutes.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of H. Res. 414. I want to congratulate my good friend, the gentleman from Pennsylvania (Mr. ENGLISH), with whom I have had the privilege of working for nearly a decade on the very important relationship between the United States and the People's Republic of China.

Now, I have heard a lot of things said, and my friend from Vermont says that he is going to take the opportunity to bring back some comments about our debate on PNTR. You do not have to do it, because I am going to talk about them right now and the benefits that has created, Mr. Speaker.

I believe that it is very important for us to realize again that the single most powerful force for positive change in the 5,000 year history of Chinese civilization has been economic reform, and I believe that we need to do everything that we possibly can to continue to encourage that kind of economic reform, and this resolution does help us down that road.

Passage of permanent normal trade relations did, in fact, allow the People's Republic of China to move into a rules-based trading system by becoming a member of the World Trade Organization. It is obvious we still have very serious challenges as we continue down that road. But, Mr. Speaker, I am a glass-half-full sort of guy, and I happen to believe that what we need to do is realize that encouraging these reforms, as this resolution offered by my friend from Pennsylvania will do, is the right thing for us to do.

We also need, Mr. Speaker, to realize the benefits of imports. We obviously can talk about stuffed animals and furniture, and we are on the verge of Halloween, Halloween costumes, a wide range of very important consumer products that are available to children in this country.

The fact that products come from China in fact play a role in enhancing the economic standing of the 1.3 billion people of China. And what does that create? It creates for them an opportunity to become consumers of U.S. goods and services.

Mr. Speaker, I think it is very important for us to note that as we look at the challenges that exist for us today, anything that would undermine that route that is being taken toward greater economic reform would be wrong. That is why, Mr. Speaker, I encourage my colleagues to support this resolution, and to do everything that we possibly can to make sure that even greater reform does take place in the future.

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

Mr. DREIER. I am happy to yield to my friend, the gentleman from Vermont.

Mr. SANDERS. Mr. Speaker, I thank my friend very much.

My friend talks about the importance of economic reform in China, and I agree with him. But do you not think we also should be talking about the loss of millions of decent paying jobs?

Mr. DREIER. Mr. Speaker, if I might reclaim my time, I will answer by saying yes, I do believe it is very important for us to focus on the manufacturing base in this country, and that is why with the tax and regulatory legislation that we are looking at here, we will play a role in encouraging that.

My view, Mr. Speaker, is that rather than simply pointing the finger at economies that are growing to the point where they can consume U.S. goods and services, we need to encourage reform right here at home, as well as encouraging reform there.

Mr. SANDERS. Mr. Speaker, if the gentleman will yield further, my friend ignores the fact that all of the projections are that the trade deficit with China is going to grow wider and wider, which means more and more job loss in the United States.

I ask my friend, what do you say to your corporate buddies, who throw American workers out on the street, move to China and hire people there, for 30 cents an hour?

Mr. DREIER. Mr. Speaker, reclaiming my time, that kind of hyperbole, ''corporate buddies,'' that is absolutely ridiculous. I am as concerned about American workers as anyone, and I know the corporate leaders in this country are concerned about American workers.

Mr. Speaker, let me say in response to my friend that we need to do everything that we can to realize that we are in a global economy. If we, as the United States of America, do not shape the global economy, we will be shaped by the global economy. That is why it is correct for us to pursue these reforms, do everything that we possibly can to make sure that it happens, and, at the same time, to look at policies which can encourage the expansion of our manufacturing base right here at home.

Mr. ENGLISH. Mr. Speaker, it is a great privilege for me to yield 2 minutes to the gentleman from Wisconsin

(Mr. RYAN), a distinguished member of the Committee on Ways and Means.

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman from Pennsylvania for his leadership on this issue and for bringing this resolution, to which I am a cosponsor, to the floor.

Mr. Speaker, this is a dire issue for America. I come from Wisconsin, which arguably has the most manufacturing jobs lost per capita to any other State in the country.

There is a fact that the economic recovery that is under way in America is not necessarily going through manufacturing. We have bled manufacturing jobs, especially over the last couple of years. And when you boil it down and look at what is going on in manufacturing, there are two areas we have to focus on.

Number one, we have to stop pushing jobs overseas. We have to lower health care costs, lower the tax rates on American manufacturers, cut down the regulatory and lawsuit costs, make energy costs cheaper and more affordable and more reliable. But we also have to work at stopping countries from unfairly taking jobs overseas. That is what this resolution is all about.

What this resolution does is express what we in Congress think needs to happen, and what we believe needs to happen is, number one, I am glad that China is in the WTO, because before a year-and-a-half ago, we did not have China signing up to a treaty to play by fair trade rules, we did not have the means to hold China accountable.

Now that China is in the WTO, they have signed on the dotted line, they have said they would play fairly, they would obey international fair trade standards, and they are not doing that. What this resolution does is it says enough. Congress is serious. China needs to obey and play by the rules that they themselves signed up to play by just a year-and-a-half ago.

Now, in Congress, we cannot change China's laws; only they can do that. But we can speak with unity here in this body, Republicans and Democrats, saying that we need to make sure that China upholds their commitments, that they need to play by the rules they themselves signed up to, that we urge and encourage our administration to hold them accountable with our trading partners who are similarly affected by devaluing their currency, pegging their currency at a discount, stealing our intellectual property rights, subsidizing their business sectors.

This is an opportunity for Congress to speak with one voice against these abuses that need to change, and change today.

Mr. Speaker, I thank the gentleman from Pennsylvania for his leadership on this issue.

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

Mr. ENGLISH. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN), a very distinguished advocate of American workers.

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

Mr. GREEN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding me time.

I stand in strong support of this resolution, H.R. 414 and urge its immediate passage.

The previous speaker, my good friend and colleague the gentleman from Wisconsin (Mr. RYAN), said in Wisconsin we have lost over 77,000 manufacturing jobs in just the last 3 years. We have suffered the loss of some of our most distinguished, some of our oldest companies. We have thrown small communities into turmoil. We have created an uncertain future for too many families. I think it is time for us to fight back.

There are a lot of factors that have led to the loss of manufacturing jobs, anticompetitive tax policies, burden of regulation. We have to address all of those. But better trade policies, more fair trade policies, are clearly something we need to do.

Let us make no mistake, the passage of this resolution is not a substitute for taking definitive steps to level the playing field on trade. However, this resolution is a growing sign, a growing recognition, that there is a problem. I think it does create a higher profile for this issue. I think it lets the Chinese know that we are serious in protecting our economy and protecting manufacturing jobs; that we will not sit by as they ignore their long-term obligations. It is long past time, long past time, for China to follow through on its commitments.

Getting China to reform its currency and trade policies is going to require a full court press that includes more than just Congress. That is why I want to commend the Bush administration for the efforts they have made recently. I know that President Bush has taken this message to China. I know that Secretary Evans is currently in China further driving home this point. I hope the Secretary will use this vote today as leverage in his negotiations. It shows that our Congress is unified in saying that we will take steps to protect our economy.

□ 1500

This is only a first step, though. If China does not comply with its WTO obligations, we need to do much more. I will call on this body, if they do not follow through, I will call on this body to consider legislative efforts like those that I have authored with my good friend and colleague, the gentleman from Pennsylvania (Mr. ENGLISH), called the China Act. We do need to take steps. Today is a good start.

Mr. LEVIN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time. I think we have to make sure we clarify a couple of things.

First, I do not think anyone would propose that our country become China when it comes to its manufacturing base and how we treat our workers and the type of product we put out. Certainly we have to do a number of things to continue our competitiveness with countries abroad, but there is no way that America will ever get to compete with countries that are paying 50 cents an hour for wages. And I hope that no one is recommending here that we spiral downward to try to compete; in other words, this become a race to the bottom in order to be able to compete and manufacture products abroad.

My good friend, the gentleman from California (Mr. DREIER), mentioned that we are about to celebrate Halloween and all of those costumes that our kids are going to be wearing, if you take a look at the label, most have been made in places like China. They were made in America before. But I do not believe anyone is suggesting that we now pay Americans 50 cents an hour to manufacture and fabricate garments like that in order to be able to compete with China.

At the same time, look at the bill. The only thing it calls for, well, first it commends the President and his administration for continued efforts to engage the government of the People's Republic of China and to encourage China to fulfill its commitments. Encourage. And then it continues to say the House of Representatives encourages the People's Republic of China to meet its commitments. We encourage. We encourage. We closely monitor. There is nothing this does.

We should investigate. We have the power under statute to investigate the trade violations committed by countries like China. That is what this bill should say, not that just we encourage the Chinese to do something better.

Mr. ENGLISH. Mr. Speaker, I have no further speakers beyond reserving the right to close.

Mr. LEVIN. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, it is interesting. I listened to the two gentlemen from Wisconsin, and one said it is a dire situation, and the other said that rhetoric is not a substitute for specific steps. And that is the shortcoming in this resolution. It is a weak one.

I want to emphasize, there are specific steps that the administration should have taken and some that it can still take. I want to be very clear about that. First, the annual review, WTO, I believe it is now going on. The administration should use that as an opportunity to press China on its shortcomings as to its commitments when it went into the WTO. It did not press last time. It needs to this time.

Secondly, the annual report. It was weak. It should have been much stronger.

And there are also specific steps under our statutes that can be taken and under WTO regulations when China does not live up to its obligations. We

can use section 301 to start an inquiry, or we can go directly into the WTO.

So there are these specific steps and they have not been taken, for example, article 15 of WTO relating to currency. So what I am saying is, and I hope this message also goes out in addition to the message in the English resolution. His message is essentially more rhetoric, more jaw-boning. The message I hope that also goes when we vote for this is, go beyond this. Use the specific provisions in our law and in the WTO regulations and in those provisions. We need to press China to live up to its obligations that were so clearly laid out, and we have to do more than send a Secretary over to China to give speeches. We need to use the mechanisms that exist so that we have a certainty that as we trade with China, and it is more than Halloween costumes, it is increasingly in electronics, that they live up to the obligations they promised to abide by when they joined the WTO.

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

Mr. Speaker, this has been an edifying debate. I particularly want to salute my colleague, the gentleman from Michigan on the other side of the aisle, who has been attentive to the issue of China trade for a long time and has been an example to many of us, including many of us on my side of the aisle.

I must say, though, I think the record needs to be made clear and this resolution needs to be put in context. It is more than a weak exhortation; it is an expression of support for the administration's efforts at a very critical time to challenge China and encourage them to float their currency and liberalize their trading regime. We sent Secretaries over to China to do more than give speeches. They have delivered a very powerful message, and it appears that the Chinese are beginning to listen. But I agree with the people on the other side: more needs to be done.

Our message today, Mr. Speaker, is that Congress will not stand on the sidelines while our industrial base is eroded and manufacturing jobs are lost forever.

Some adopt the rhetorical convention that criticism of China's trade policies amounts to protectionism. But Adam Smith himself would not have recognized China as a free market bulwark. The term that he would have used to describe China's economic policies is mercantilistic, and mercantilism has no place in today's global marketplace which is guided by a rules-based system where ''beggar thy neighbor'' is not part of the equation.

The goal of this resolution today is to encourage the leveling of the playing field in our trade relationship and create fair opportunities for both our employers and our employees.

This is a resolution that should ultimately unite Members with diverse districts and diverse philosophical backgrounds. It has drawn support from the National Association of Manufacturers, the U.S. Chamber of Commerce, the United Steelworkers of America, and the American Iron and Steel Institute.

Mr. Speaker, this is precisely why I strongly encourage all of my colleagues to send a message to the administration, send a message to China, and send a message to the world that we are watching and we are proceeding from here, starting with this resolution, proceeding with hearings in the Committee on Ways and Means later this week, and proceeding from here with a much stronger trade policy that is determined to fight for our industrial base.

Mr. THOMAS. Mr. Speaker, China is now a member of the World Trade Organization (WTO). The WTO is not a club that just anyone can join—a country must be deemed ready and economically mature. China's accession signifies that it is expected to meet the obligations that come with its stronger presence within the global economy. It is our role, as one of China's major trading partners, to make sure that china fulfills its WTO commitments. However, I am concerned that many of China's commitments have not yet been implemented or implementation has been inadequate. I join the many cosponsors of this resolution in urging the Administration to continue to engage China on compliance, as well as use the dispute settlement mechanism where necessary to enforce our rights.

In addition to seeking WTO compliance, I support the Administration's efforts to encourage China to establish a more flexible exchange rate. At the same time, China's financial system is in desperate need of modernization. I urge the Administration to continue to work with China to modernize its fiscal structure and relax its capital controls.

On Thursday and Friday of this week, the Committee on Ways and Means is holding a hearing to explore China's expanding role in the global economy, its currency management and its progress in meeting its new trade commitments. The insights we will gain in this hearing will give us more guidance as we develop a tough policy to promote a healthy and strong trade relationship with China.

Finally, today's resolution is yet another foray in the battle to support U.S. manufacturers. We must create more jobs at home and preserve existing jobs by promoting innovation, reducing costs and making U.S. companies more competitive. Yesterday, the Ways and Means Committee approved the American Jobs Creation Act, legislation to foster job creation through comprehensive tax relief for domestic manufacturers, small businesses and other employers. It is my hope that the House will take swift action on this legislation. American workers need help now.

Mr. SMITH of Michigan. Mr. Speaker, I rise to support H. Res. 414. Recently, I met with a delegation of Chinese parliamentarians. China is undergoing huge changes that will alter relations between the United States and the People's Republic of China for decades to come.

Trade was high on our agenda. Total U.S.-China trade rose from $5 billion in 1980 to $147 billion in 2002. China is a huge potential market for U.S. goods and services. However, last year China sold us $103 billion more in goods than we sold to them. This trade deficit is caused by the political and social difficulties of doing business in China, by China's restrictive trade and investment practices and by the enormous American appetite for low-priced Chinese goods. In seemingly good news for farmers, China has been dramatically increasing its protein consumption, which means our agricultural trade should improve.

Many, including Treasury Secretary John Snow, contend that China also tilts the playing field by manipulating the value of its currency to keep it low. This lowers the price of Chinese goods in the United States and raises the price of our exports to China. Depending on whether you buy or sell, this makes Americans better or worse off in the short run. For the long run, such a large trade deficit makes America vulnerable. We presented our concerns to the parliamentarians about agricultural and industrial quotas and arbitrary Chinese biotechnology standards. We will press for a market in China that is fair.

China's large potential market should not blind us to the oppressive and aggressive nature of the regime. It remains a Communist system with dictatorial control over politics and business. Communist party leadership fills the top positions, but the military, with the world's largest standing army, also wields great influence in state industries and politics. China still represses Tibetan and Muslim minorities, and has been working to reduce free political expression in Hong Kong, sparking huge rallies in defiance of proposed anti-sedition laws. While enterprise flourishes in certain zones, it is a privileged capitalism operating under government favor. China still tries to dictate the terms of Taiwan's existence and has traditionally backed North Korea's reprehensible regime.

Yet, China is changing. Economic growth and competition in the free world economy will tend to bring social and political change, though probably not as quickly as we would like. Experts on China like Ross Terrill (author of The New Chinese Empire—and What it Means for the United States) predict that the Communist party-state will crumble under the pressures of foreign trade and international obligations for transparent trade laws. Encouraging this transparency will be to our advantage.

We need to welcome Chinese participation in the society of nations when it chooses to play a constructive role. However, we must be firm when we disagree. We should not soft-pedal our commitment to fundamental human rights or our demands for trade agreements that don't put us at a disadvantage. We must recognize China's ambitions to challenge U.S. interests at the United Nations, in Asia and around the world. We have to be aware of and resist Chinese encroachments on our national security and that of our allies. Firm discussions of differences, like those we had with the parliamentarians, are one way to push forward U.S. engagement with this great nation in pursuit of interests we have in common. I commend the gentleman from Pennsylvania, Mr. ENGLISH, for his leadership.

Mr. MANZULLO. Mr. Speaker, our manufacturing base is slowly evaporating before our very eyes. Just last week, Rockford, Illinois—the main city I represent—lost 3 facilities. Over 1,200 workers in a town of 150,000 lost their job last week. Over 2.8 million manufacturing jobs have been lost since July 2000. Manufacturing now just makes up 14 percent of our

Gross Domestic Product. Yet, few people in Washington, D.C. are truly aware of this problem because this town doesn't produce much except paper.

There are many causes to the problems facing manufacturing: high health care and energy costs; legal liabilities; a staggering tax and regulatory burden; an outdated export control system; a government procurement system that thinks that it is OK to buy abroad; and an unfair global trading system.

I am proud to stand with Representative PHIL ENGLISH today in trying to bring about some relief in the trade area. The United States faces huge challenges with China. We all recognize and appreciate the difficulties the Chinese face as they integrate into the world economy. China is to be commended for going down a path towards more free markets and away from a planned economy. They have over 1.2 billion people and tens of millions of people enter their workforce each year. China must grow about eight percent a year just to keep even as they try to integrate new workers into the economy and also provide real employment for former workers at failed state-owned enterprises.

However, while acknowledging these challenges, we also must not allow the nations of the world to expect the United States to be the only global economic growth engine. It is in China's long-term best interest to address the real problems contained in this resolution. It is time for China to promote economic growth within their country mainly by selling the products made in their nation to their own people—not using the United States as a pressure relief valve.

Plus, China should take a cue from one of our great industrialists—Henry Ford—and pay their workers sufficient wages so that they can afford the products they are making for U.S. consumers.

Yes, China has honored many of its WTO commitments. But it has also not lived up to all of its commitments to the WTO. We have given China the benefit of the doubt for too long. While we are grateful for China's willingness to buy more U.S. products, this is not enough. Now is the time to ratchet up the pressures and if necessary bring a trade case through the WTO process to force full compliance of China's commitments. Our manufacturers have taken it on the chin for too long now.

For example, having very low taxes imposed on Chinese semi-conductor manufactures but taxing imported semi-conductors at a much higher rate is outrageous. We're struggling to replace our Foreign Sales Corporation/Extraterritorial Income tax regime due to a WTO challenge from Europe; however, this Chinese tax discrimination policy hasn't been challenged in the WTO system yet. Does that make any sense? The National Association of Manufacturers has many more examples, which I ask unanimous consent to include in the RECORD.

I'm also grateful to Representative ENGLISH for including a good deal of the language in H. Res. 414 dealing with Chinese currency manipulation from the legislation I authored along with my good friends and colleagues Representatives MIKE ROGERS, of Michigan, CHARLIE STENHOLM of Texas, and BARON HILL of Indiana. I am especially pleased that the House of Representatives will go on record today in opposition to these policies that place up to a 40 percent tax on U.S. exports to China and up to a 40 percent discount on Chinese imports into the United States. Is it any wonder why our manufacturers are crying out for relief? This resolution is a good first step towards final action on H. Con. Res. 285, which, if diplomacy fails, calls for initiating a Section 301 trade case to impose trade sanctions against nations that manipulate their currencies for a trade advantage.

Let me also remind my colleagues that China is not the only nation that deliberately undervalues its currency. Japan, Korea, and Taiwan also vigorously intervene in currency markets to prevent their currency from strengthening against the U.S. dollar. Passage of this resolution today should not undermine our resolve to combat the problem of unfair foreign currency manipulation of other nations.

Prior to his departure for the Asia Pacific Economic Council conference, President Bush said we must make sure that ''currency policies of a government don't disadvantage America. Fair trade means currency policies [are] fair.'' We should strongly support passage of H. Res. 414 today. But we should also work towards ensuring passage of H. Con. Res. 285 if timely progress is not made towards accomplishing the goals set out in this resolution and if countries including Japan, Korea, and Taiwan do not halt the practice of undermining the value of their currency to boost their export potential.

Again, Mr. Speaker, I urge my colleagues to support H. Res. 414.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
September 10, 2003.

REVIEW OF CHINA'S COMPLIANCE WITH ITS WTO ACCESSION COMMITMENTS

AREAS OF CONCERN

Currency undervaluation;
Subsidized exports;
Counterfeiting and IPR violations;
Discriminatory VAT taxes;
Unjustified product labeling requirements;
Inappropriate standards and concerns about CCC mark procedures;
Restrictions on trading rights;
Lack of action on auto financing regulations;
Problems with Tariff Rate Quotas; and
Slow progress on transparency.

OVERVIEW

The National Association of Manufacturers (NAM) welcomes the opportunity to comment on China's compliance with obligations accepted as a WTO member and commitments made in conjunction with accession to open its internal market to foreign products and services. The NAM supported China's membership on the condition that it would take meaningful steps to adhere to these obligations and commitments and become a responsible participant in the international trading system.

Trade with China is of immense importance to many U.S. manufacturers. The Chinese market is set to become one of the largest in the world within the next several years. Chinese imports are expected to exceed $380 billion in 2003, making China the world's third largest importer after the United States and Germany. At the same time, China is rapidly becoming a major exporter of industrial goods, and the range of industrial products exported has continued to grow at a rapid pace. China's expanded participation in the global marketplace, then, offers both important new commercial opportunities as well as challenges resulting from increased competition in the U.S. and foreign markets.

NAM members want the United States to have a positive trade relationship with China. However, they also want a level playing field for competition. In that regard, we are hearing increasing concerns about unfair Chinese trade and currency practices and China's failure to provide the same kind of access to U.S. goods and services in the Chinese market that Chinese goods and services enjoy in the U.S. market.

As China concludes its second year as a WTO member, its compliance record is decidedly mixed. While U.S. exports to China continue to increase (by 24 percent in the Jan.–June 2003) and a growing number of U.S. companies are trading and investing there, the NAM has also received far more complaints about unfair Chinese practices than in the previous year.

NAM members recognize that China is still in transition to a market economy and in the process of phasing in certain WTO market-opening commitments. However, because China has quickly becomes such an important global importer and exporter, it is vital that the United States work to ensure that China complies as fully as possible with all WTO obligations and particularly those that have a significant impact on U.S. economic interests.

NAM member companies and affiliated organizations have reported the following concerns regarding China's WTO compliance.

CURRENCY MANIPULATION

By far, the NAM has received the greater number of complaints about China's deliberate policy of undervaluing its currency to gain unfair competitive advantage over U.S. producers and those of other WTO member countries. Economists have estimated that China's currency could be undervalued by 40 percent or more. The Chinese yuan has remained pegged to the dollar at 8.28 for the past eight years despite an extended period of robust economic growth, continuing trade surpluses and a large build-up in foreign exchange reserves, which exceeded $350 billion in July 2003.

Chinese officials have acknowledged that the pegging of the yuan to the dollar is part of a deliberate strategy to support Chinese industry and boost exports. This kind of currency undervaluation for commercial gain goes against the intent of the General Agreement on Tariffs and Trade (GATT), which seeks to remove trade barriers and allow markets to determine trade flows. Article IV, for examples, states that ''Contracting Parties shall not, by exchange action, frustrate the intent of the provisions of this Agreement . . .'' China's undervalued currency, in effect, acts as an additional trade barrier to U.S. exports and an unfair subsidy for all Chinese exports. We believe that Chinese exchange rate policies do not comply with WTO obligations.

SUBSIDIZED EXPORTS

We continue to receive reports from different industries (e.g., tool-and-die, metal forming, steel and chlorinated isocyanurates) that Chinese products are being sold in the United States at prices so low that they could not even cover the cost of raw materials and shipping much less full production and marketing costs. A tool-and-dye company, for example, reports that a Chinese competitor was selling a product similar to one made in the United States for $40,000, compared to the U.S. producer's price of $100,000. The U.S. company maintains that the cost of the raw materials alone would amount to $40,000, not including shipping, duties and other costs. A U.S. producer of chlorinated isocyanuratrs, which is used as a cleaning agent in swimming pools, reports a similar situation. As a result of pricing which appears to be below cost, Chinese exporters are expected to increase exports of

this product by 400 percent in 2003 over 2002 levels.

These reports suggest the likelihood of widespread use of subsidies, either direct or indirect, to help Chinese exporters gain unfair competitive advantage in the U.S. market. They merit further investigation by USTR and the Department of Commerce. One source of indirect subsidy is continued bank leading to money-losing and insolvent Chinese manufacturers, often state-owned or state-controlled enterprises. Since the Chinese banks providing these loans are either state-owned or state-controlled, the Chinese government bears responsibility for their lending practices. U.S. steel producers note that the Chinese steel industry is the largest-recipient of interest-rate subsidies authorized by the national government. Since many of the companies that benefit from either directed bank lending or subsidized interest rates are engaged in international trade, they have an unfair competitive advantage vis-à-vis U.S. based companies, which must rely on private financing at market rates.

COUNTERFEITING AND INEFFECTIVE ENFORCEMENT OF IPR PROTECTION

While Chinese laws on intellectual property rights (IPR) have improved considerably, the lack of effective enforcement of the IPR protection remains a serious problem. Violations of trademarks through product counterfeiting is rampant and on a massive scale. The violations involve a wide range of products, including consumer hygiene and health care products, athletic footwear, pharmaceuticals, food and beverages, motorized vehicles and even entire automobiles. Pharmaceutical counterfeiting is now, according to U.S. industry representatives, a serious public health concern in China. We believe that the lack of criminal penalties for counterfeiting, including jailing, prevents effective enforcement of trademark and labeling violations.

We are also concerned about reports that local government authorities are actually promoting the expansion of local industry dedicated principally to counterfeiting. At a minimum, local authorities are knowledgeable of counterfeit production and taking no action to halt it. There appears to be no mechanism for the national government to prevent local governments from aiding and abetting counterfeiting by local industry. In addition, the Chinese customs service has not cooperated in blocking exports of counterfeit products even when solid evidence of counterfeiting was provided. It is claimed that, since the ''exporting'' of counterfeit products does not constitute a ''sale'' of the products, the relevant Chinese law did not apply.

Other IPR violations are also common. They include unauthorized duplication of computer software, music films; copying of designs; unauthorized use of patented technology; and unauthorized use of U.S. product certification logos. The makers of air conditioning and refrigeration equipment note that the ARI (Air-Conditioning and Refrigeration Institute) certification symbol was being used without authorization by a Chines company. Efforts to have the Chinese government stop this unauthorized use proved ineffective.

The pharmaceutical industry does, however, also report improvements in intellectual property protection, notably by the promulgation of a new regulation on data exclusivity for clinical trials, as required in TRIPS and committed in China's accession package.

MANIPULATION OF VAT AND OTHER TAXES

We have reports that China is manipulating the application of taxes, notably the Value-Added Tax (VAT), to both restrict imports and indirectly subsidize exports. For example, the scrap recycling industry has told us that Chinese users of imported copper and other scrap metals are deliberating undervaluing their invoices to pay less VAT on the imported metal. When the finished metal products are exported, however, Chinese producers claim a rebate of the VAT based on the metals' real import price. This results in a substantial subsidy for the exported product that translates into lower prices in the U.S. market. It also enables Chinese scrap metal users to pay higher prices for scrap metal than their U.S. competitors. Chinese customs and tax authorities have not taken action to investigate these practices.

A major U.S. producer of semiconductors has also expressed concern about continuing Chinese discrimination in the application of the VAT on imported and domestically produced semiconductors. China levies a 17 percent VAT on imported integrated circuits. Domestically designed and produced integrated circuits are taxed at VAT rates ranging from 3–6 percent. Integrated circuits produced in China but designed abroad are taxed at 11 percent. This discriminatory treatment of domestic and foreign ''like'' products violates Article 3 of the GATT.

UNJUSTIFIED LABELING REQUIREMENTS

In 2002 the Chinese Ministry of Health promulgated a new regulation mandating the labeling of all genetically modified (GM) food products. While the implementation of the regulation was subsequently suspended indefinitely, the fact that it remains on the books is already having significant adverse economic effects and creating barriers to trade. Some producers have ceased shipping these products in anticipation of the regulation going into effect.

U.S. food producers have questioned whether the Health Ministry's action was in conformity with China's WTO obligations. The ministry did not provide a justification for the labeling requirement based on an assessment of health risks, which is a requirement of the Agreement on Sanitary and Phytosanitary Measures. The Technical Barriers to Trade Agreement (TBT) also suggests inadequate attention to the treatment of ''like products,'' the question of whether the labeling requirement addresses a ''legitimate objective'' and the requirement to base technical regulations on ''performance'' rather than ''design'' characteristics.

INAPPROPRIATE STANDARDS AND CONCERNS ABOUT CCC MARK SYSTEM

Several NAM members have raised concerns about application of technical standards and the CCC Mark system. With regard to standards, China is requiring that certain products (e.g., electrical products) be manufactured only to ''international standards'' as determined in the ISO or IEC. Other ''international standards,'' notably those developed in the United States and widely used in the global marketplace, are not allowed. This does not conform with the WTO TBT Committee interpretation that ''international standards'' need not be limited to ISO or IEC standards.

A second set of standards concerns relates to the CCC mark system. China introduced the CCC mark system to comply with WTO requirements for a single mark for like domestic and imported products. It is, in that sense, a step forward on standards and mark requirements. However, the inconsistent, non-transparent and inflexible application of the CCC Mark on a variety of products (e.g., electrical products, air conditioning and refigeration equipment, and tires) has created market access barriers and needlessly raised the cost of importing products into China.

Generic problems include: the high cost of having Chinese inspectors audit factories in the United States and other foreign countries on compliance with the standards; continued delays in allowing U.S. testing and certifying bodies to certify compliance for the CCC mark; and lengthy delays and relatively high cost of obtaining testing and certification for the CCC mark in China.

Several other specific problems were noted. A major tire company reported that several types of its bus tires that are standard sizes in countries around the world cannot obtain the required CCC mark because these sizes are not listed in the Chinese National Standards. Another type of tire widely on Chinese trucks is also not on the list and thus cannot be sold by the U.S. company in China. Efforts to resolve this problem with Chinese standards authorities and Chinese customs have thus far been unsuccessful. In addition, the company reports that local inspection offices appear to be abusing their authority by requiring the re-inspection of the company's Chinese-produced tires and confiscating tires which they determine to be ''non-complaint'' with the CCC mark standards.

RESTRICTIONS ON TRADE RIGHTS OF JOINT VENTURES

China is not fulfilling its commitment to allow foreign joint ventures to import and sell products (e.g., tires, automobiles, auto parts and industrial equipment) in China, which was to have gone into effect on Dec. 10, 2002. A major tire company, for example, reports that the Chinese government has imposed additional restrictions on its trading rights that were not anticipated when this concession was negotiated. They include allowing only new joint ventures to have this right and requiring the Chinese and foreign partners to have separately done U.S. $30 million in trade with China over each of the three preceding years.

LACK OF ACTION ON AUTO FINANCING REGULATIONS

The Chinese government has committed to publish new regulations governing the financing of automobile purchases. Several NAM member companies have expressed concern about slow progress on the regulations that were explicitly promised in China's accession agreement. The U.S. government should press for their prompt issuance to comply with WTO obligations.

PROBLEMS WITH TARIFF RATE QUOTAS AND IMPORT CERTIFICATES

Complications in implementing tariff rate quotas (TRQs) are creating non-tariff trade barriers to U.S. feed products, notably corn and wheat. Chinese authorities have delayed issuance of regulations on the administration of the TRQ system and introduced unreasonable licensing procedures. There has also been a lack of transparency in the process which makes it difficult to know which companies are granted quotas. China has also violated its accession agreement by redirecting quotas reserved for non-state companies to state-owned companies.

A related problem that has affected soybean exporters is the narrow window for using import permits under the AQSIQ permit system. U.S. exporters have only 90 days to purchase, transport and unload their products in China. These restrictions are not only limiting U.S. commodity exports sales but also restricting the operation of soybean processing plants in China.

LACK OF TRANSPARENCY IN TRADE REGULATORY PROCESS

Many companies complain about the lack of transparency in the trade regulatory process and the difficulty in obtaining current laws and regulations governing trade and

business operations. This is a continuing problem that should lend itself to solutions in a relatively short time frame. The U.S. government should press for concrete steps that improve transparency at all levels.

WILLIAM PRIMOSCH,
Director, International Business Policy, National Association of Manufacturers.

Mr. OXLEY. Mr. Speaker, I am pleased to rise today in support of H. Res. 414, a resolution which I am co-sponsoring and which encourages China to move to a more flexible exchange rate. As Chairman of the Financial Services Committee, which has jurisdiction over domestic and international monetary policy as well as economic growth and stabilization, I believe that this is an important measure which deserves the support of the House.

I commend Mr. ENGLISH for his leadership in introducing this important resolution, which seeks to encourage China to continue taking concrete steps to reform its economy and move towards a more flexible exchange rate mechanism. I note that the U.S. Chamber of Commerce, the National Association of Manufacturers, the United Steelworkers of America, and the American Iron and Steel Institute all support this resolution.

I also want to commend the gentleman from New York (Mr. KING) who chairs the Subcommittee on Domestic and International Monetary Policy, Trade, and Technology, which held the first House hearing on this subject.

I support this resolution because it helps signal to the Chinese government that this House is monitoring closely the efforts of both the Chinese and U.S. governments to position China to develop a more appropriate exchange rate and infrastructure to support that exchange rate. The goal is to ensure that serious progress continues to be made.

For some time now, our own dynamic economy has been undergoing a dramatic shift towards services sector jobs. It is unclear how the Chinese exchange rate regime contributes to, or accelerates, this trend. However, the trend should not be confused with the notion that the U.S. economy will someday outsource all production of physical goods.

The manufacturing sector in this country is a significant source of innovation, patent development and, therefore, economic growth. We cannot permit potentially unfair competition to undercut this important activity. We should not accept that possibly unfair competition will require hard-working Americans doing a good job to be unemployed.

China is the world's most populous country. It is becoming one of the United States' most important trading partners. It has recently served as a source of strength in Asia, as well as an engine of economic growth globally. U.S. companies and consumers benefit from a strong and growing China, but only if that growth is based on a fair system.

China's economic growth and potential should lead it to adopt 21st Century exchange rate policies as well. If China is going to be serious about its WTO commitments, it must also recognize that fair competition requires market-determined exchange rates in addition to opening its markets to foreign companies.

It is true that such large changes cannot occur overnight, especially in a command economy. It is also true that a financial system must be strong and resilient in order to absorb the kind of capital market volatility that accompanies floating exchange rates. Finally, it is true that China's fragile banking system needs to be strengthened if a floating rate system is to be launched successfully. Change is needed for the good of China's own economy.

Mr. Speaker, these facts should underscore the importance of China moving clearly and unambiguously towards banking sector reform. They cannot serve as an excuse for delaying these necessary reforms.

I urge all of my colleagues to support the resolution.

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

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and agree to the resolution, H. Res. 414.

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

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H. Res. 414, the resolution just debated.

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

There was no objection.

CONGRATULATING THE FLORIDA MARLINS FOR WINNING THE 2003 WORLD SERIES

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 415) congratulating the Florida Marlins for winning the 2003 World Series.

The Clerk read as follows:

H. RES. 415

Whereas Pro Player Stadium, located in the City of Miami Gardens and Miami-Dade County, is the home field for the Florida Marlins;

Whereas Major League Baseball is celebrating the 100th anniversary of the World Series this year;

Whereas on October 25, 2003, the Florida Marlins won the 2003 World Series in a six game series;

Whereas by defeating an excellent New York Yankees team—the American League Champions and the latest team in a storied franchise which, with 26 World Series victories, dominated professional baseball's first 100 years—the Florida Marlins have captured their second World Series title in the brief ten year history of the team;

Whereas, during the World Series, Marlins pitcher Josh Beckett struck out 19 Yankee batters in two games, maintained a 1.10 earned run average, including a 2–0 shutout during the crucial 6th game, and was named the 2003 World Series Most Valuable Player;

Whereas the Marlins won 91 games during the regular season to earn a playoff berth by clinching the National League Wild Card slot;

Whereas the Marlins have never lost a post-season series;

Whereas the Marlins defeated the Western Division Champion and defending National League Champion San Francisco Giants in the National League Divisional Series;

Whereas the Marlins defeated the Central Division Champion Chicago Cubs in the National League Championship Series;

Whereas, during the National League Championship Series, Marlins catcher Ivan Rodriguez batted .321 with 2 home runs and ten runs batted in while playing stellar defense, and was named the 2003 National League Championship Series Most Valuable Player;

Whereas the Marlins team of skilled players, including Josh Beckett, Ivan Rodriguez, Juan Pierre, Jeff Conine, Mike Lowell, Luis Castillo, Alex Gonzalez, Miguel Cabrera, Derek Lee, Juan Encarnacion, Brad Penny, Carl Pavano, Mark Redman, Dontrelle Willis, Ugueth Urbina, Braden Looper, Chad Fox, Michael Tejera, Nate Bump, Rick Helling, Mike Redmond, Brian Banks, Lenny Harris, Mike Mordecai, Todd Hollandsworth, Armando Almanza, Toby Borland, Blaine Neal, Kevin Olsen, Tommy Phelps, Tim Spooneybarger, Justin Wayne, Ramon Castro, Josh Willingham, Andy Fox, Kevin Hooper, Jesus Medrano, Wilson Valdez, Josh Wilson, Chad Allen, Chip Ambres, Abraham Nunez, Gerald Williams, and A.J. Burnett, contributed extraordinary performances during the regular season, the playoffs, and the World Series;

Whereas Manager Jack McKeon, who was hired on May 11, 2003, provided strong and wise leadership and bold strategy for a young and resilient baseball team during the regular season and in the postseason and, in the words of one columnist, ''. . . recapture[d] much of what baseball once was, how tangy it tasted, what a field of honor it celebrated and how its central emotion should be joy'';

Whereas the Marlins coaching and support staff, which included Pitching Coach Wayne Rosenthal, Bench Coach Doug Davis, Hitting Coach Bill Robinson, First Base and Infield Coach Perry Hill, Third Base Coach Ozzie Guillen, Bullpen Coaches Pierre Arsenault and Jeff Cox, Team Physician Dr. Daniel Kanell, Trainer Sean Cunningham, Assistant Trainer Mike Kozak, Equipment Manager John Silverman, Assistant Equipment Manager Mark Brown, Visiting Clubhouse Manager Bryan Greenberg, Clubhouse Attendant and Umpire's Room Assistant Michael Hughes, and Visiting Clubhouse Assistant Michael King, exhibited exemplary leadership and guidance to the team;

Whereas Jeffrey Loria purchased the Florida Marlins franchise on February 12, 2002, and stated: ''Our goal is to restore the organization to championship form.'';

Whereas Jeffrey Loria, Chairman, CEO, and Managing General Partner of the Florida Marlins, David Samson, President of the Florida Marlins, and Larry Beinfest, Senior Vice President and General Manager of the Florida Marlins, have shown a positive commitment to the Marlins franchise by successfully acquiring, assembling, and maintaining a team of high-quality, winning players;

Whereas the dedicated Marlins fans supported their team with joy and enthusiasm; and

Whereas the Marlins captivated the United States with their ''never-say-die'' playing style during this historic performance: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates—

(A) the Florida Marlins for winning the 2003 Major League Baseball World Series championship and for their outstanding performance during the 2003 Major League Baseball season; and

(B) Florida Marlins pitcher Josh Beckett for winning the 2003 World Series Most Valuable Player Award;

(2) recognizes and praises the achievements of the Marlins players, coaches, management, and support staff whose hard work, dedication, and resiliency proved instrumental throughout their World Series Championship Season;

(3) commends the Florida community and the Marlins fans for their dedication; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) the Marlins players;

(B) Marlins Manager Jack McKeon;

(C) Marlins Chairman, CEO, and Managing General Partner Jeffrey Loria;

(D) Marlins President David Samson;

(E) Marlins Senior Vice President and General Manager Larry Beinfest;

(F) the Marlins Coaches;

(G) The Honorable Shirley Gibson, Mayor of the City of Miami Gardens, Florida;

(H) The Honorable Manny Diaz, Mayor of the City of Miami, Florida;

(I) The Honorable Alex Penelas, Mayor of Miami-Dade County, Florida; and

(J) The Honorable Jeb Bush, Governor of the State of Florida.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

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

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Florida Marlins are World Series champions, again. ''The Fish,'' as they are affectionately known in our hometown, this low-budget baseball team that plays in a football stadium, amazed the sports world by defeating the New York Yankees in the World Series on Saturday night.

Who would have expected the Marlins, in only their 11th year of existence, after starting the year with only 19 wins in their first 48 games, after firing their manager in May, that they would rebound to win their second World Series in the last 7 years. But it was not easy. The Marlins' road to the championship was nearly as bumpy as it was unexpected.

When the Marlins struggled early in the season, many commentators speculated that the season was hopeless and that the team would soon unload many of their veteran players to save money for the future. Instead, the Marlins did the opposite, aggressively acquiring key players midway through the summer who proved integral to their eventual championship run. Under the direction of new manager Jack McKeon, the Marlins turned it around and began winning. The Marlins finished the season with a relatively astonishing record of 91 wins and 71 losses, and earned the wild card berth in the National League.

In the first round of the playoffs, the Marlins were slated to take on the most feared slugger in baseball, Barry Bonds, and the defending National League champions, the San Francisco Giants. After dropping game one, the Marlins defeated the Giants in three straight games to win the series. Who could forget Jeff Conine's clutch throw from left field to catcher Ivan Rodriguez for the final out in game 4 that clinched the series.

In the League Championship Series, fate seemed to challenge the Marlins as much as their opponents, as the Marlins squared off against the Chicago Cubs. The red-hot Cubs, who had not even advanced to the World Series since 1945, seemed to have a date with destiny as they took a 3-games-to-1 lead on the Marlins in the best-of-7 series. Incredibly, the Marlins again bounced back to win three straight games and the last two in Chicago to defeat the Cubs in this unforgettable classic.

The unlikely Marlins advanced to the World Series to play the giants of baseball, the New York Yankees. Just like during the regular season, and the two previous playoff series as well, no one besides the Marlins themselves and their fans believed they had a chance. Once more, the Marlins fell behind in the series; this time the Yankees captured a 2-games-to-1 advantage. But remarkably, the Marlins were not to be denied. Paced by their pitching ace, World Series Most Valuable Player Josh Beckett, they triumphed in three consecutive games to win a series for the third time. The entire baseball world was stunned as the Florida Marlins became the World Series champions.

The standouts on this Marlins team were many during the season and through the playoffs, and it seemed like a different player excelled each game. Catcher Ivan Rodriguez seemed to always deliver timely hits and great defense. Pitchers Josh Beckett, Mark Redman, Dontrelle Willis, Carl Pavano, and Brad Penny provided underrated performances all year long, and 20-year-old Miguel Cabrera was called up from the minor leagues in mid-June and was one of the most valuable hitters down the stretch; and their double-play combination of Alex Gonzalez and Luis Castillo was perhaps the league's best.

And we must certainly recognize the manager, Jack McKeon, a man who took over the struggling team midway through the year and led them all the way to a World Series crown. Jack kept the Marlins from unraveling early and motivated them to reach unthinkable heights.

Mr. Speaker, this was the Marlins' second world championship in their short history. It is important to note that the Marlins have never lost a playoff series, winning all six in which they have played.

Mr. Speaker, I am proud to be a cosponsor of House Resolution 415, and I strongly support its speedy adoption. I commend both of my colleagues, the gentleman from Miami, Florida (Mr. MEEK), as well as the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), for introducing this timely measure. I congratulate the Florida Marlins for their unforgettable season.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Chicago Bears, Bulls, White Sox and Black Hawks are all in my congressional district; but today, they take a back seat to the Marlins.

Inspiration is what we call this. That is the best way to describe the Florida Marlins, who rose from the ashes, going from 10 games under 500 on May 22 to winning the 2003 World Series.

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The road to the World Series title was grueling and draining. The Marlins had to get by Barry Bonds and Company, the Giants, in the division series. Then after trailing 3–1 to the Cubs, again the Marlins came through, beating Mark Prior and Kerry Wood in back-to-back victories at Wrigley Field, sending Dusty Baker and the Cubs back into hibernation, saying wait until next year.

Then the Marlins, who captured the World Series in 1997, won the final three games against the Yankees. They kept their streak intact of never losing a series in the postseason with the help of a 23-year-old right-hander who dominated the playoffs. Josh Beckett threw a five-hit shutout, with nine strikeouts, to clench the World Series with a 2–0 victory over the Yankees in Game 6. Beckett was subsequently named the series Most Valuable Player.

Marlin's manager Jack McKeon said of Beckett, ''Whether it is 3 days or 4 days, guys have a tendency to lose a little, but this guy is special. This guy has got the guts of a burglar. He is mentally tough. I was not about to take him out. It is a spectacular job for a 23-year-old kid that has come on and matured in the postseason. And you are looking at a possible All-Star next year and a 20-game winner. This guy is going to be something special,'' end of quote.

In the 100th World Series game played at Yankee Stadium on the 100th anniversary of the first World Series, another team got to celebrate on the field other than the 26-time champions.

I am sure that that was not only an inspiration for all of the Marlins, but that was an inspiration to baseball lovers all over the country. That was a kind of rejuvenation, if you will, in many instances of the love of the game of baseball.

So we congratulate the Marlins.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), lead cosponsor of this resolution.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I join my colleagues in celebrating the Marlins' win of the World Series. I think we have to recognize that Major League Baseball has perhaps provided the country and the world with the best postseason ever in this month that has just ended. It was an extraordinary series of games, series of series topped off by a wonderful and extraordinary World Series, won by a young and dynamic team that has earned the admiration of the entire world.

Obviously, in south Florida we are extremely proud of our Florida Marlins. They embody in many ways south Florida, from Jack McKeon, the manager, who at age 72 became the oldest manager to lead a team to the World Series, after being called just a few months earlier when he was, in fact, out of a job and many thought that he would never again manage in the Major Leagues, was asked by the front office of the Marlins to come and turn the team around, that they needed someone at the helm with the experience and leadership qualities of Jack McKeon. And what a job he did.

And I think for that job, he needs to be commended. And the front office starting with Jeffrey Loria, the chairman and CEO and managing general partner of the Marlins, and David Samson, the president of the Marlins, and Larry Beinfest, the senior vice president and general manager, what a job they did putting together this young team that faced and defeated a New York Yankees team with over three times the payroll. And, yet, because of the young talent in the Florida Marlins, the Marlins were able to prevail.

What can we say? We can pick example after example that really leaves us in awe. That cleanup hitter, 20-year-old cleanup hitter who just a few months earlier was in AA baseball, in the Minors, and he was called up because he showed such extraordinary talent and Miguel Cabrera became the first 20-year-old since Ty Cobb to bat in the cleanup position in the World Series. What a future he has.

As with so many others in the Florida Marlins, we can go down the roster and analyze and really celebrate the excitement that all of the players represent, from Juan Pierre, that dynamic and really exciting, extraordinarily exciting center fielder, to obviously Ivan Rodriguez, the catcher, who electrified us all with his plays and his hitting day after day, what a World Series it was. So I am glad that the gentleman from Florida (Mr. MEEK) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) have come forth with this resolution which I have joined.

And I think we not only should commend the Marlins for their extraordinary victory and share, obviously, in the celebration that all of south Florida is engaged in, but also remember that this is an opportunity for some tasks that remain undone to be finished.

First I think it is important, and I have full faith and confidence that the front office, the leadership of the Marlins, is not going to do what the ownership did after the last World Series, and that is to basically eliminate that great team, but rather it is our hope, and I am sure that we will see that the nucleus of this team will remain together so that the community can see that team again playing next year and winning, as I am sure that it will.

And we also have in south Florida a great task, which my brother, the gentleman from Florida (Mr. MARIO DIAZ-BALART), was heavily involved in just a few years ago when he was in the State legislature in attempting to put together all the pieces that are required for a new stadium. And south Florida needs a new baseball stadium. And I hope that this impetus now that has been gained by this marvelous victory can serve for the community to come together and perhaps dust off the plan that almost succeeded just a few years ago that was a very good and interesting plan, and that a baseball stadium can be built because this team, this dynamic, wonderful team deserves it, and the community deserves it.

And so congratulations to that wonderful team, the Florida Marlins.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MEEK), who himself was an outstanding athlete at Florida A&M, playing outside linebacker before he became an outstanding elected official.

Mr. MEEK of Florida. Mr. Speaker, I want to thank the gentleman from Illinois (Mr. DAVIS) for his very kind remarks as it relates to not only good sportsmanship but recognizing an outstanding team in the Florida Marlins.

We have had many conversations during the series of the Cubs and the Marlins, and he was quite honorable. He was a man of faith in his own team, but not only perseverance but a little magic moved the Marlins along.

I want to thank my colleagues, the gentlewoman from Florida (Ms. ROS-LEHTINEN), also the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), who are very fine friends of mine, who are all Marlin fans in Miami-Dade County, including my colleague the gentleman from Florida (Mr. MARIO DIAZ-BALART.)

Mr. Speaker, I rise today to not only congratulate the Marlins, but congratulate those individuals that live in south Florida and throughout the world that are fans of the Marlins, some old and some new. I think the Marlins' victory in the World Series was very good for the country, taking the lead from my good friend, the gentleman from Georgia (Mr. LEWIS), when he was sharing with me that it would be good for the country if the Cubs in Boston would be able to make it to the World Series.

But watching those games, which I had the opportunity to witness some personally in south Florida, I cannot forget the experience not only that the Marlins experienced when we went to Yankee Stadium during the Series, not on Saturday night but the night before that, and we were there, and I ran into my good friend Armando Cadina and his wife Margerete and also his daughter Ann Marie, it was quite an experience because we seemed to be the only Marlins fans in the whole stadium.

Yankees fans, my hats are off to you. You are my future constituents in Florida, so I have to be nice to you. But I just want to say that it was quite an experience for the Marlins to actually win a victory, a 0–2 victory, an outstanding series, an outstanding game in New York on Saturday that I witnessed on television in low temperatures. We are used to 80-plus in south Florida. It was just outstanding.

Mr. Speaker, I brought the Miami Herald that was thrown on my lawn on Sunday morning that just simply said ''Amazing.'' And I must say that the Marlins' season was amazing.

Both of my colleagues referenced the manager of the Marlins. I must say that it is a story that I believe that Americans can buy into, that older Americans and wiser Americans still have a lot of contribute to this country. And I think it was his leadership that led this very young team to their second world championship.

And I must say being a young person myself and having great respect for wiser and older individuals, I think that we need to understand in this country, even through the love of baseball, that we need to put that love in our own life practices, making sure that we give those that have contributed in the past an opportunity to contribute again.

And I want to commend not only the Marlins leadership, the president, but also the vice president and managers that they hired Jack McKeon to be the manager of the Marlins once again.

Mr. Speaker, I also would like to add that it is important that we continue to not only honor those individuals that won the World Series but also that they put it on behalf of Americans, at a time of war and a time of conflict overseas. It is always good for us to come together as Americans. It is always good for colleagues to come together in such a resolution as this.

This Resolution 415 is a resolution sponsored by every member of the Florida delegation, all 25 members. I

would like to commend them for doing so.

Once again, to the Florida Marlins, we appreciate you, we commend you. We like our New York fans, we like our Cubs fans, we like our Giants fans, but we love our Marlins fans. And the people of Miami had three celebrations, Mr. Speaker, for the Marlins yesterday, one down Flagler Street where they had an outstanding ceremony at the end of that, one in Little Havana, and another one in Ft. Lauderdale with a boat parade.

Marlins, you deserved what you received. I want to thank Mr. Beckett for being the MVP of the World Series. I wish him many, many more seasons.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to a very frustrated Cubs fan, the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I want to commend the resolution. I also want to commend the Florida Marlins. They are a terrific team. Their outfield speed, their pitching, their fans, their coach, is really outstanding. I think it is a pretty good deal.

I saw in the paper the other day that they are only a 15 to 1 team to repeat next year. I think that is a pretty good deal, by the way, particularly now that they signed, resigned Jack McKeon.

I just have one question, though, for the gentlewoman from Florida (Ms. ROS-LEHTINEN). And I was a good loser. I helped participate with the Chicago folks in providing Chicago pizza and a few other things for the delegation. I want to ask if there is anything in this resolution, and I admit that I have not read it yet, that either praises that right fielder for the Giants that dropped that ball at the critical point in the play-offs, or Steve Bartman?

Ms. ROS-LEHTINEN. Mr. Speaker, would the gentleman yield?

I am sure that we will be glad to consider any further resolutions in the future, but right now we are just so very proud of the Fish. And I am sure that you would agree that there is always next year.

Mr. UPTON. Mr. Speaker, there is always next year. We have been saying that for a lot of years, though.

Mr. DAVIS of Illinois. Mr. Speaker, I do not have any additional requests for time, but just simply the words of the Cubs: Wait until next year. And we congratulate the Marlins for an exciting year. We will see what happens in the future.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I have no other speakers. I want to congratulate again the Marlins manager Mr. McKeon, the Florida Marlins team, all the administrators, and everyone involved, including the fans, for the remarkable World Series championship.

I also want to congratulate my colleagues from Florida once again, the gentleman from Florida (Mr. MEEK) and the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) for giving their support to this resolution being considered by the House today. I urge its adoption. Go Fish.

Mr. SHAW. Mr. Speaker, I rise today in recognition of the 2003 World Series Champions, the Florida Marlins. Earning the reputation of a team that does not quit or tire, the Marlins defeated the famed New York Yankees in a thrilling 6-game series. Having never lost a post season series, the Marlins defeated the San Francisco Giants in four games and the Chicago Cubs in an exciting seven game series.

The National League Championship Series garnered the excitement and thrill baseball fans have not witnessed in some time. Playing in famed Wrigley Field, the Marlins took Game 1 and headed home to the friendly confines of Pro Player Stadium with a split in the series. Games 3 and 4 went the way of the Cubs resulting in a 3 to 1 deficit that looked monumental to overcome. However, under the leadership of Manager Jack McKeon and behind the arm of pitcher Josh Beckett, the Marlins and Beckett gave baseball fans across the country an exciting two-hit, complete game shutout sending the series back to Chicago. Down 3 games to 2, the Marlins players were never swayed from their sheer competitive spirit and gamesmanship. With the undaunting task of facing Cubs' ace Mark Prior, the Marlins battled the Cubs the entire game. However, with one out in the top of the eighth inning, a World Series berth seemed out of reach. In a span of 10 minutes, the Marlins had turned Game 6 from being down 3–0, to leading 8–3 due to the solid hitting of men like Juan Pierre, Pudge Rodriquez, Miguel Cabrera, Jeff Conine, Derek Lee, and utility fielder Mike Mordecai. The thrilling series was now deadlocked 3 games apiece.

Game 7 is every fan's postseason dream. Two teams tied and playing with everything on the line with the chance of being crowned National League Champions and a trip to the fall classic. As we all know, the Marlins came out swinging against Cubs star pitcher Kerry Wood. Despite losing a lead, the Marlins continued their case of consistent and timely hitting. In the end, the Marlins once again shocked the baseball world. In just 10 short years, the Marlins were headed back to their second World Series—participating in Major League Baseball's 100th World Series.

Behind the outstanding leadership of Jack McKeon, the Marlins stole the show in Yankee stadium by defeating the Yankees in Game 1. Heading back to South Florida, Marlins fans packed Pro Player Stadium cheering this exciting young team on the home field. Battling past the hype of Roger Clemens' final start, the Marlins battled the Yankees winning Game 4 and in a thrilling 12 innings thanks to the game ending heroics of shortstop Alex Gonzalez. Last Thursday, the Marlins, behind stellar pitching by Carl Pavano, sent the Series back to Yankee Stadium leading 3 games to 2. With the stage set for Game 6, Jack McKeon decided on the arm of Josh Beckett to deliver the championship to South Florida. Beckett pitched a gem. A nine-inning complete game, shut out by holding Yankee hitters to five hits in a 2–0 win. What a performance!

Mr. Speaker, this Marlins fan congratulates Chairman and CEO Jeffrey Loria, Skipper Jack McKeon, the Marlins coaching staff, MVP Josh Beckett, each player and the entire Marlins organization and fans on an exciting 2003 World Series.

Mr. STEARNS. Mr. Speaker, I wanted to rise today and join my colleagues from the Florida Delegation in commending the World Champion Florida Marlins. It was your classic Cinderella story in which the Marlins knocked out the heavily favored Yankees in a comeback season not soon to be forgotten. Led by skipper Jack McKeon, the Marlins, dealing with the adversity of a coaching change, rebounded from a 16–22 record to finish 91–71, making them only the ninth team in Major League history to rally from at least 10 games under .500 to reach the playoffs. In Game 6 in front of a hostile crowd, McKeon's Marlins, aided by the stout pitching of Josh Beckett, took the World Series title, four games to two. With their second title in the franchise's 11 years, I believe the Marlins are in good hands. Jack McKeon who turns 73 next month, is the oldest coach in any major U.S. professional sport to lead his team to a championship, and I surely hope that he will agree to return for a run at it again in 2004.

Mr. MILLER of Florida. Mr. Speaker, I rise today to congratulate the Florida Marlins on winning the 2003 World Series. The team is a great source of pride for my home state and proved, against the odds, exactly what it was capable of.

The Marlins certainly had to work hard for their second championship. Their opponent, the New York Yankees, had won four of the last eight World Series. This Florida team surprised many with its victory, but they deserve every bit of praise. Even changing the team's management, mid-season, did not keep them from obtaining baseball's top award.

I urge my colleagues to join me in recognizing the 2003 World Series Champions, and I congratulate the Florida Marlins on a fantastic season. Your Congress is proud of what you have accomplished.

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Ms. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 415.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

WELCOMING PRESIDENT CHEN SHUI-BIAN OF TAIWAN TO UNITED STATES

Mr. CHABOT. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 302) expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003.

The Clerk read as follows:

H. CON. RES. 302

Whereas for more than 50 years an ironclad relationship has existed between the United States and Taiwan which has been of enormous economic, cultural, and strategic benefit to both nations;

Whereas the United States and Taiwan share common ideals and a clear vision for

the 21st century, where freedom and democracy are the foundations for peace, prosperity, and progress;

Whereas Taiwan has demonstrated its unequivocal support for human rights and a commitment to the democratic ideals of freedom of speech, freedom of the press, rule of law, and free and fair elections routinely held in a multiparty system;

Whereas the upcoming October 31, 2003, visit to the United States of Taiwan's President Chen Shui-bian is another significant step in broadening and deepening the friendship and cooperation between the United States and Taiwan;

Whereas on October 31, 2003, Taiwan's President Chen Shui-bian will be presented an award by the International League for Human Rights for his efforts in promoting tolerance, democracy, and human rights; and

Whereas Taiwan's President Chen Shui-bian will bring a strong message from the Taiwanese people that Taiwan will cooperate and support the United States campaign against international terrorism and efforts to rebuild and bring democracy and stability to Afghanistan and Iraq: Now, therefore, be it

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

(1) offers its warmest welcome to President Chen Shui-bian of Taiwan upon his visit to the United States on October 31, 2003;

(2) asks President Chen Shui-bian to communicate to the people of Taiwan the support of Congress and of the American people;

(3) recognizes that the visit of President Chen Shui-bian of Taiwan to the United States is a significant step toward broadening and deepening the friendship and cooperation between the United States and Taiwan;

(4) congratulates President Chen Shui-bian on his receiving the Human Rights Award from the International League for Human Rights; and

(5) thanks President Chen Shui-bian and the government and people of Taiwan for their humanitarian and medical assistance in Afghanistan and post-war Iraq as well as for their willingness to contribute to the peace, stability, and prosperity of the Middle East.

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

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

GENERAL LEAVE

Mr. CHABOT. 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. Con. Res. 302.

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

There was no objection.

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

Mr. Speaker, I first of all want to thank the distinguished gentleman from California (Mr. LANTOS) for his leadership on this issue. And I might add that I had the opportunity just to get back last night from a trip to Baghdad and Turkey and Jordan as well, and traveling with the gentleman from California (Mr. LANTOS) is like travel basically in a seminar and listening to him talk about the situation. One learns a great deal, not only in committee but traveling with the gentleman from California (Mr. LANTOS); and I want to thank him for his leadership and for educating many of us who were with him.

I also wanted to commend my colleague, the gentleman from Florida (Mr. WEXLER), who is also a fellow co-chair of the Congressional Taiwan Caucus, for offering this resolution, as well as my colleagues, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Ohio (Mr. BROWN), who are also founding co-chairs of the caucus.

Mr. Speaker, I rise today to express my enthusiastic support for H. Con. Res. 302, a resolution warmly welcoming the visit to the United States of Taiwan President Chen Shui-bian. I call upon all Members to join in supporting a resolution which affirms the American values of democracy and human rights, for there is no place in the world providing a clearer example of respect for these values than that of Taiwan.

President Chen was inaugurated after fair and free elections where the people of Taiwan, despite high-handed pressure from the outside, exercised their free choice in selecting their leadership. Taiwan stands out as a shining example, a beacon of these democratic values which reaches across the strait to the people of mainland China.

It is also fitting and proper that the Congress should welcome the visit of the leader of this flourishing democracy, a testament to the fact that Chinese culture is not inherently inconsistent with democratic values. The International League of Human Rights, which will present President Chen a human rights awards for its efforts in promoting tolerance, democracy and human rights, fully recognizes the fact that Taiwan and its democratically elected leader are sterling examples for not only Asia but for the entire world.

I note that despite his busy New York schedule, President Chen will take time to visit a memorial to mourn the passing of the former first lady of China and Taiwan, Madam Chiang Kai-shek, who died in Manhattan last week at the venerable age of 105 years old.

Madam Chiang's passing reminds us again of the long and enduring ties between the freedom-loving people of the United States and the freedom-loving people of Taiwan. Madam Chiang was the first Asian woman to address a joint session of this Congress during the World War II era when we were united in the ultimately successful struggle against international fascism during that war. She returned to the Congress in 1995 to commemorate the 50th anniversary of the conclusion of that historic conflict. We in the Congress join President Chen and the people of Taiwan in mourning Madam Chiang's passing.

Finally, I do not want to miss the opportunity provided by President Chen's visit to thank him and the people of Taiwan for their steadfast support for the campaign against international terrorism, the prevention of the spread of weapons of mass destruction, and the reconstruction of both Iraq and Afghanistan.

The recent interdiction by Taiwan port authorities of chemical cargo bound for North Korea is but one example of their continued support in the war against international terrorism.

With the passage of this resolution, the House warmly welcomes President Chen Shui-bian and congratulates him on receiving the Human Rights Award.

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

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

Mr. Speaker, I rise in strong support of this resolution. At the outset, let me thank my good friend, the gentleman from Ohio (Mr. CHABOT), for his undeserved and very generous comments for which I am very deeply grateful.

Mr. Speaker, I want to commend my friend and distinguished colleague, the gentleman from Florida (Mr. WEXLER), for introducing this significant resolution.

When I first visited Taiwan decades ago, it was a destitute dictatorship. It is now a thriving and prosperous free and democratic society. The political landscape in Taiwan has fundamentally changed over the past 2 decades. Authoritarian rule has been tossed aside, and Taiwan's leaders are now chosen by free and fair elections. Taiwan has become a vibrant democracy, serving as a beacon to those across the entire Asia Pacific region who yearn for freedom, showing that democracy can and does thrive in a Chinese context.

The resolution before us, Mr. Speaker, welcomes the elected President of Taiwan, Chen Shui-bian to the United States during a so-called transit visit.

Mr. Speaker, we are, of course, pleased that President Chen is transiting the United States and he will have the opportunity to meet with Members of Congress and other American leaders over the next few days. But if Taiwan were any other nation, Mr. Speaker, President Chen would be welcomed with a Rose Garden ceremony, a state dinner, and the opportunity to address a joint session of Congress. These honors, Mr. Speaker, would be commensurate with the increasingly close and mutually beneficial relationship between our two countries. Not only is Taiwan a bulwark of democracy in the Asia Pacific region, it is our eighth largest trading partner. We have an extremely close security relationship, and Taiwan has stepped up to provide humanitarian and medical assistance in both postconflict Afghanistan and postconflict Iraq.

In short, Mr. Speaker, Taiwan is one of our closest allies in the Asia Pacific region. Yet, due to the sensitivities of

the People's Republic of China, the executive branch refuses to give Taiwan the status and recognition it deserves.

Mr. Speaker, I support a strong and vibrant relationship between the PRC and the United States. Provocative steps which upset the peace across the Taiwan straits should be avoided; but we must find new ways to show the people of Taiwan that the United States recognize Taiwan's profound economic and Democratic transformation and that our Nation will work energetically to promote a greater role for Taiwan in the community.

Mr. Speaker, I look forward to meeting with President Chen this weekend and discussing with him ways in which we can strengthen the political, economic, and security ties between our two nations. I will tell President Chen that this Congress will not stop fighting until Taiwan can participate in the World Health Organization and many other international organizations in which Taiwan can and will make a significant contribution. I strongly urge all of my colleagues to support this resolution.

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

Mr. CHABOT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, in the world today, few men live their lives as a model of courage and freedom with as much vigor as Chen Shui-bian.

As President of Taiwan, Chen has been a stalwart champion of human rights and an ally of the United States in the war on terror. And during his visit to New York this week, President Chen will be recognized by the International League of Human Rights promoting and defending the inalienable rights of all men to life, liberty, and the pursuit of happiness.

With this resolution, the American people will welcome President Chen to our Nation and send a message with him back across the Pacific that the United States stands in solidarity with the people of Taiwan. And during his time in office, President Chen has revealed himself to be a true friend of the American people, and a vital ally in pursuit of our common interests around the world.

I was honored to host President Chen myself in Houston in 2001, his first such visit to the United States, during which we took in an Astros game and had the chance to introduce him to Texas cuisine. And I know it did not compare with shark fin soup, but I think he liked it nonetheless.

Mr. Speaker, Taiwan is an indisputable success as an ally and as a nation. America's solidarity with Taiwan and her people, the solidarity of freedom, will not be served by convenience nor threatened by bullying.

Our brave friend President Chen leads an island of hope, Mr. Speaker, a light shining out from dark shadows of an oppressive tyranny. With this resolution we will tell the citizens of that shining island that we see their light on the horizon and know the sun of freedom is rising over the Pacific.

I urge my colleagues to send that message of hope and solidarity to the people of Taiwan and vote for this resolution.

Mr. LANTOS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. WEXLER), the distinguished author of this resolution.

Mr. WEXLER. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for yielding me time.

Mr. Speaker, as co-chair of the Taiwan Caucus, I join my colleagues, the gentleman from California (Mr. ROHRABACHER), the gentleman from Ohio (Mr. CHABOT), and the gentleman from Ohio (Mr. BROWN), in strongly supporting this resolution welcoming the President of Taiwan, President Chen, to the United States.

Since assuming office in May 2000, President Chen has demonstrated his steadfast commitment to the ironclad relationship between the United States and Taiwan and the shared principles upon which our partnership has been formed, that of democracy, freedom, and the defense of human rights. In fact, during his visit to America, President Chen will be presented an award by the International League for Human Rights in recognition of his efforts to promote tolerance and freedom amongst the people of Taiwan. And I would like to express my most sincere congratulations to President Chen for receiving this highly esteemed award.

Mr. Speaker, in the past decades, Taiwan has blossomed into a strong and dynamic democracy. It has experienced unprecedented economic, political and social growth, culminating with its entry into the World Trade Organization in 2002.

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Taiwan has demonstrated its unequivocal support for freedom of speech, freedom of the press and the rule of law and a commitment to democracy and its multifaceted alliance with the United States. In fact, under President Chen's leadership, Taiwan has joined the war against terror and contributed humanitarian and medical assistance to American-led peacekeeping efforts in Afghanistan and Iraq.

On behalf of the Congressional Taiwan Caucus, I wish to express our appreciation to President Chen and the Taiwanese people for this invaluable assistance and pledge America's continued commitment to the security and prosperity of Taiwan.

President Chen's visit to America serves as a reminder that Taiwan is one of America's most important allies in East Asia and a model of democracy and progress in the region. I applaud President Chen for his bold leadership, resolve, and vision and urge my colleagues to join me, to join us in welcoming him to the United States and thanking him for the deepening and historic, mutually beneficial relationship between America and Taiwan.

Finally, I would like to reiterate the comments by the gentleman from California (Mr. LANTOS) suggesting in the most critical of terms that Taiwan be given the opportunity to enter the World Health Organization. The experience with respect to SARS this past year points out how important it is that Taiwan be given that opportunity, and the people of Taiwan should always know that the people of America will stand with them in their fight and defense of freedom.

Mr. CHABOT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, I also want to take this opportunity to express our warm welcome to President Chen and his delegation from Taiwan to New York City and obviously to support this legislation.

Taiwan and the United States have enjoyed a very close relationship with each other for more than 50 years. It is political, it is economic, it is cultural. It has been a rich association for both of us. In fact, Mr. Speaker, despite its size, it is our 8th largest trading partner, and we are Taiwan's largest trading partner.

For this and for many other reasons, the United States must unabashedly, unabashedly stand behind the Taiwan Relations Act which will communicate our resolve, our intention, our commitment for a peaceful resolution in Taiwan.

Mr. Speaker, it has always been that Taiwan has been a reliable ally to the United States. They stood with us, shoulder to shoulder, right after 9/11, and Taiwan has given us its support of our war with Iraq and, as a Nation, has promised humanitarian assistance into postwar Iraq. So I look forward to meeting with him in New York and hearing his vision and commitment to the continued democratization of Taiwan.

Just as a footnote, I might point out he is coming up for reelection. Just like all of us come up every 2 years, he comes up for reelection in March of 2004. He is going to be involved with a free, open election process, and with the free election process in Taiwan, they have a very active campaign structure, and so I look forward to that just as he does.

I might also point out that he is the first opposition candidate to ever be elected in Taiwan. So, again, I think today we can look at that country and say democracy is not only working, it is working uniquely, and we want to commend him and stand behind that wonderful country of Taiwan.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 3 minutes to the gentleman from Ohio (Mr. BROWN), a distinguished member of the Committee on International Relations.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for his work and his managing of this bill and his incredible support for human rights around the world, for his entire service in Congress.

I also want to thank the sponsors of this resolution and the cochairs and founders of the Taiwan Caucus, the gentleman from Ohio (Mr. CHABOT), my friend, the gentleman from California (Mr. ROHRABACHER), and the gentleman from Florida (Mr. WEXLER), and I join all of them in urging my colleagues to join me in welcoming President Chen Shui-bian as he visits the United States this weekend.

The United States and Taiwan are true democracies that share common ideals and share a clear vision for the future. Taiwan is a country where freedom and democracy have become the foundation for peace, for prosperity, for progress.

Taiwan shares common goals with the United States in supporting human rights and a commitment to the democratic ideals of freedom of speech, freedom of the press and free and fair elections that are the strength of any democracy, but with Taiwan, it has not always been that way.

My first trip to Taiwan was many years ago when Taiwan was still under marshall law. It was not anything close to a democracy. It was a country with one-party rule. Some used the word ''fascist.'' Others used other words to describe Taiwan, but one of the real miracles of the world in the last 2½ decades is what has happened to that country, a country that went from one-party totalitarian rule to a country that is democratic, that is prosperous, that shares the ideals of our country.

That miracle, that road to progress, that road to democracy was in large part because of the courage and the fervor for human rights exerted by people like Chen Shui-bian who sacrificed a great deal of his life, his family's life and much of his time on this earth to sacrifice that to bring Taiwan forward.

The move towards democracy, the miracle of Taiwan is partly because of Chen Shui-bian, partly because of his political party of the DPP and largely because of the commitment of Taiwanese in Taiwan and Taiwanese overseas in this country who have been a major part of that.

The effort for Taiwan to get into the World Health Organization, as the gentleman from Florida (Mr. WEXLER) mentioned, as the gentleman from California (Mr. LANTOS) mentioned has not yet reached fruition. That is so very very important.

On a personal level, I have met President Chen Shui-bian when he was mayor and when he was a candidate for the presidency of his country. He has done a terrific job in dealing with issues like SARS. He has done a terrific job in beginning to rebuild the economy in his country. He and his political party, the DPP, have done a miraculous job in helping to create the miracle that we know as Taiwan. It is a country that we should look to as a model for much of the rest of the world, for a developing country, that did not enjoy the fruits of democracy and has moved towards that and puts them in the community of nations. We owe it to that nation, that country to embrace them in the community of nations.

I think President Chen Shui-bian's visit to the United States will help do that this weekend.

Mr. CHABOT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), who has been a tireless leader for speaking out on behalf of the people of Cuba.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank my friend from Ohio for yielding me the time.

For me, I consider it a privilege and an honor to be able to speak on behalf of the resolution welcoming to the United States the elected President of the Republic of China of Taiwan. I have always had admiration for the Republic of China of Taiwan.

I believe that first they demonstrated an extraordinary, an extraordinary and commendable and admirable will and devotion to work and to sacrifice that permitted them to achieve economic prosperity which is the envy of the world, and then they have made, as our distinguished colleagues have mentioned today, also extraordinary and admirable progress in democratization and have, in fact, established a representative democracy that is to be admired by all of the world.

So I join my colleagues in welcoming President Chen Shui-bian to the United States. The entire Congress and the American people welcome him and say to him that we consider it a great privilege to be able to be an ally and a friend of Taiwan, that that will always be reality, and here in Congress I think it is important, Mr. Speaker, that we reiterate our support for Taiwan, for the Taiwan Relations Act and that we never falter, never falter in support and in reminding the world that the safety and security of Taiwan is a matter of extreme importance to this Congress, to the American Government and to the American people.

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

We are all looking forward to the distinguished President's visit. It will further strengthen U.S.-Taiwan relations, and on behalf of all of us in Congress, we are honored to have him come again to the United States.

Mr. BALLANCE. Mr. Speaker, as many Chinese-Americans and American friends of Taiwan prepare to welcome Taiwan President Chen Shui-bian to New York on October 31, I wish to pay tribute to this impressive Taiwan leader.

At the age of 49, Mr. Chen Shui-bian was elected the tenth president of the Republic of China on Taiwan in March 2000. Mr. Speaker, I have learned that his political success came only after a series of personal tragedies. As active political opponents of the government in the 1970's and 1980's, Mr. Chen and his wife were often targets of attack by the government. In November 1985, Mr. Chen's wife was hit by a tractor-truck speeding out of a narrow lane. Although Mrs. Chen's life was spared, the lower half of her body was paralyzed. Mr. Speaker, In 1986, Mr. Chen was sentenced to eight months in prison for libel for criticizing the government. At the end of 1986, campaigning in her wheelchair Mrs. Chen was elected to the Legislative Yuan (Parliament). After Mr. Chen was released from prison in 1987, he served as Mrs. Chen's assistant and joined the Democratic Progressive Party, the opposition party.

Subsequently, Mr. Chen became a member of the Legislative Yuan, chairman of the Formosa Foundation and Mayor of Taipei, prior to his election as president in 2000. President Chen undoubtedly is a fighter for his people and his country. He has instilled confidence in his people, making them feel that they are important, that they matter in the world, and that they must choose their own future, without interference from outside sources. Mr. Speaker, there are many who believe that President Chen speaks for his people; the world should listen carefully to what he has to say; and only he and his people can help maintain peace and stability in the Taiwan Strait. Mr. Speaker, President Chen needs our help to make the right decisions that are good for Taiwan.

I ask my colleagues to join me in supporting President Chen's efforts.

Mr. KIRK. Mr. Speaker, I join my colleagues in welcoming our distinguished guest, President Chen Shui-bian of Taiwan, to the United States.

Mr. Chen Shui-bian was elected president of the Republic of China on Taiwan on March 20, 2000. Since his election, he has shown true leadership in improving Taiwan's economy, instituting further democratic reform, and strengthening Taiwan's role in the international community.

I am confident that President Chen will further strengthen Taiwan's strong ties with the United States. Taiwan has been a key ally in our efforts against global terrorism, and has pledged assistance to the rebuilding of Afghanistan and Iraq.

I also trust that President Chen will soon begin a dialogue with the leaders of the People's Republic of China with the interests of the 23 million people of Taiwan in mind. Taiwan is a sovereign nation and must make its own decisions about its future without coercion from the People's Republic.

I applaud President Chen's insistence on his people ''walking their own road, their own Taiwan road.'' President Chen is a dynamic leader with a vision for Taiwan's future, and I join my colleagues in wholeheartedly welcoming him from one democracy to another.

Mr. CARDOZA. Mr. Speaker, I rise today to welcome Taiwan's President, Chen Shui-bian as he travels through the United States later this month. President Chen recently celebrated his third anniversary in office; a term of service which has been marked by Taiwan's

strong support and friendship with the United States.

During his time in office, President Chen has shown that he is a thoughtful, responsible leader, which has been evident in his handling of cross-strait relations with the People's Republic of China. President Chen has consistently stated that both sides of Taiwan Strait have an obligation to uphold the principles of ''goodwill reconciliation, active cooperation and permanent peace.'' Regrettably, despite his many calls for dialogue and cooperation, the Chinese government has insisted on the dated ''one country, two systems'' formula as the solution to the Taiwan issue.

President Chen's has asserted that ''Taiwan is not a province of one country'' but a sovereign nation. I strongly agree with his assertion and believe that President Chen is right to guide his country and his people toward a brighter, more prosperous future.

As a strong supporter of Taiwan and its people, I believe the widespread praise President Chen has received is well earned. He has proven to be an effective leader for all of his people, with an unswerving dedication to continued democratization, economic reform and basic recognition of human rights.

I believe President Chen's U.S. visit will further enhance U.S.-Taiwan relations and friendship. The Untied States and Taiwan have been allies, partners and friends and this unique relationship will continue to grow stronger in the future.

Mr. Speaker, America welcomes President Chen and salutes him upon the many successes and achievements of his administration.

Mr. TANCREDO. Mr. Speaker, I rise today to welcome President Chen Shui-bian of Taiwan to the United States, and to wish him a pleasant visit to New York City at the end of this month. I am pleased that he will have an opportunity to visit with many Members of this Congress, and I am confident that his visit will be productive for our two countries.

During this time of uncertainty and regional instability in many areas around the world Americans appreciate President Chen's continued efforts and dedication to winning the war on terror, his pledge to provide humanitarian assistance in Afghanistan and Iraq, and his support for the United States as President Bush and regional leaders work to diffuse tension on the Korean peninsula.

Taiwan has been a reliable friend of the United States for many decades, and I hope that his visit will provide an occasion for our two nations to further strengthen our positive and mutually beneficial relationship.

I also want to assure President Chen and the people of Taiwan that they have many friends in the United States, and to reiterate America's support and commitment to the security of Taiwan embodied by the Taiwan Relations Act, and President Bush's statement last spring that, ''Our nation will help Taiwan defend itself,'' should that need ever arise. I also want to again state my unequivocal support for Taiwan's participation in international organizations like the World Health Organization and the United Nations.

Mr. Speaker, I applaud President Chen's insistence on pursuing a higher standard of human rights for people in Taiwan and across the globe, his commitment to individual liberty and democracy, and would like to again thank him for the stabilizing influence that his democratically elected government brings to the entire region.

I welcome President Chen to America, and I hope that many of my colleagues have the chance—as I have—to meet and visit with him when he arrives later this month.

Mr. LANTOS. Mr. Speaker, we have no further speakers, and I yield back the balance of our time.

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

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Ohio (Mr. CHABOT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 302.

The question was taken.

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

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

The yeas and nays were ordered.

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

PROVIDING FOR CONSIDERATION OF H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 416 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 416

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. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes. The first reading of the bill shall be dispensed with. 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 Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. 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. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. 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 my good friend, the distinguished gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

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

□ 1600

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, House Resolution 416 is an open rule providing for the consideration of H.R. 2443, the Coast Guard Maritime and Transportation Act of 2003. The rule provides 1 hour of general debate, evenly divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule also provides one motion to recommit with or without instructions.

Mr. Speaker, the legislation before us authorizes over $7 billion for the Coast Guard and $18.74 million for the Federal Maritime Commission in fiscal year 2004. The legislation is essential in the effort to strengthen the Coast Guard in its ever-increasing role to defend the homeland.

In this bill we face a turning point in the effectiveness of the Coast Guard. The Department of Homeland Security has called on it to be the defender of American coasts while, at the same time, sending needed resources, soldiers, and vessels to the battle against terrorism in the Middle East.

I am pleased to highlight the Integrated Deepwater System acquisition program. The Deepwater System provides the needed capital to institute effective acquisition of the cutters, computer equipment, and other resources that the Coast Guard so desperately needs. The Deepwater System has not received the funding that was outlined in 1998, but this bill makes up for the years of acquisition lost. H.R. 2443 authorizes $702 million for fiscal year 2004 to ensure that this acquisition remains on pace, allowing the Coast Guard to remain effective both at home and abroad.

The Coast Guard is particularly important to my district and constituents in south Florida, Mr. Speaker. The Coast Guard Integrated Support Command in Miami is essential to the safety and security of the area. The Coast

Guard in south Florida coordinates integrated plans aimed at hurricane safety, recreational boater safety, and, most important, protection of our coastline from terrorism and drug trafficking.

H.R. 2443 was reported out of the Committee on Transportation and Infrastructure by a voice vote. This is very good legislation, it is essential to our continued commitment to the security and safety of all citizens and residents of the United States, and we have brought it forth, Mr. Speaker, under a fair and, in fact, open rule.

I would like to thank the chairman, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), for their important work on this legislation; and I urge my colleagues to support both the rule and the underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank my friend and colleague, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), for yielding me this time; and I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this rule and the underlying legislation. I believe I speak for every Member of this side of the aisle when I say that I appreciate the efforts of the majority to bring this bill to the floor today under an open rule and in a bipartisan manner. I only wish that more bills of significant importance in this body and to the country were considered in a similar fashion. Today's rule is an open rule, and Members are permitted to offer germane amendments to the Coast Guard and Maritime Transportation Act.

As my colleague previously mentioned, the underlying legislation authorizes $7.1 billion in fiscal year 2004 for activities of the United States Coast Guard and $18 million for the Federal Maritime Commission. The level of funding that the House is providing to the Coast Guard is a 4 percent increase over the amount that was appropriated for the agency under the Homeland Security Appropriations Act for fiscal year 2004. The bill also provides the Maritime Commission with an 11 percent increase over last year's funding.

In addition to funding these two important Federal agencies, this bill amends current law affecting the Coast Guard's requirement to fire warning shots, inspect foreign vessels, and collect user fees. The legislation increases the number of commissioned officers in the Coast Guard as well as the number of active duty officers. The bill also improves our ability to respond to oil spills by requiring that oil-carrying vessels develop oil spill response plans. And my goodness gracious is that too long overdue for our Nation and, indeed, the world?

Mr. Speaker, the Coast Guard is charged with the responsibility of patrolling the 12,452 miles of coastline in the United States. Nearly 2,000 of these miles are located in Florida, in my district, as well as that of the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), and the Speaker pro tempore's, the gentleman from Florida (Mr. FOLEY), where the Coast Guard plays, as we so well know, an integral role in patrolling our shores and protecting our citizens. The increase in funding provided in the underlying legislation for this important branch of the United States Armed Services serves as a statement about the role of the Coast Guard in our global war on terrorism.

Reports have shown that America's ports remain susceptible to attack and infiltration by America's enemies. And it does not go insignificantly or symbolically mentioned that I, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), and the present Speaker pro tempore, the gentleman from Florida (Mr. FOLEY), all three of us on the floor at this time, represent three major ports: Port Everglades, the Port of Palm Beach, and the Port of Miami. Those three ports alone handle more than 13.2 million tons of cargo. In all, well over 1.5 million shipping containers were processed by South Florida longshoremen during the last year.

Certainly these statistics highlight the pressing need to increase the number of customs agents working in America's ports, but they also suggest that the roles of the Coast Guard and the Federal Maritime Commission in protecting our ports are greater than ever.

Mr. Speaker, when Congress created the Department of Homeland Security, it not only reorganized the Federal Government, but it also recommitted itself to the security of America. The underlying legislation, which the House will consider later today, is an extension of that commitment.

Mr. Speaker, I urge all of our colleagues to support the rule and the underlying legislation.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. FOLEY). Without objection, the previous question is ordered on the resolution.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 4:45 p.m.

Accordingly (at 4 o'clock and 7 minutes p.m.), the House stood in recess until approximately 4:45 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BEREUTER) at 5 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Votes will be taken in the following order:

H.R. 1720, by the yeas and nays;

Senate amendments to H.R. 1516, by the yeas and nays;

H.R. 3365, by the yeas and nays, and

House Resolution 414, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining votes in this series will be 5-minute votes.

VETERANS HEALTH CARE FACILITIES CAPITAL IMPROVEMENT ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1720, 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. 1720, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 17, as follows:

[Roll No. 576]

YEAS—417

Abercrombie	Bono	Collins
Ackerman	Boozman	Conyers
Aderholt	Boswell	Cooper
Akin	Boucher	Costello
Alexander	Boyd	Cox
Allen	Bradley (NH)	Cramer
Andrews	Brady (PA)	Crane
Baca	Brady (TX)	Crenshaw
Bachus	Brown (OH)	Crowley
Baird	Brown (SC)	Cubin
Baker	Brown, Corrine	Culberson
Baldwin	Brown-Waite, Ginny	Cummings
Ballance	Burgess	Cunningham
Ballenger	Burns	Davis (AL)
Barrett (SC)	Burr	Davis (CA)
Bartlett (MD)	Burton (IN)	Davis (FL)
Barton (TX)	Buyer	Davis (IL)
Bass	Calvert	Davis (TN)
Beauprez	Camp	Davis, Jo Ann
Becerra	Cannon	Davis, Tom
Bereuter	Cantor	Deal (GA)
Berkley	Capito	DeFazio
Berman	Capps	DeGette
Berry	Capuano	Delahunt
Biggert	Cardin	DeLauro
Bilirakis	Cardoza	DeLay
Bishop (GA)	Carson (IN)	DeMint
Bishop (NY)	Carson (OK)	Deutsch
Bishop (UT)	Carter	Diaz-Balart, L.
Blackburn	Chabot	Diaz-Balart, M.
Blumenauer	Chocola	Dicks
Blunt	Clay	Dingell
Boehlert	Clyburn	Doggett
Boehner	Coble	Doolittle
Bonilla	Cole	Doyle
Bonner		Dreier

Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
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.
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
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, 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
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
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
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
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—17

Bell
Case
Castle
Dooley (CA)
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Lampson
Miller (NC)
Ortiz
Pombo
Rodriguez
Stupak

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEREUTER) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1725

Mr. RENZI 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.

The title of the bill was amended so as to read: ''A bill to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, establishing, and updating patient care facilities at Department of Veterans Affairs medical centers, to provide by law for the establishment and functions of the Office of Research Oversight in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes.''.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes.

NATIONAL CEMETERY EXPANSION ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 1516.

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 concur in the Senate amendments to the bill, H.R. 1516, 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 412, nays 0, not voting 22, as follows:

[Roll No. 577]

YEAS—412

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
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.
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
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
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
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
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
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
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
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
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
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—22

Akin
Bell
Bradley (NH)
Case
Castle
Dooley (CA)
Farr
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Lampson
McCotter
Miller (NC)
Ortiz
Pearce
Rodriguez
Stupak
Velazquez

□ 1734

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FALLEN PATRIOTS TAX RELIEF ACT

The SPEAKER pro tempore (Mr. BEREUTER). The pending business is the question of suspending the rules and passing the bill, H.R. 3365.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and pass the bill, H.R. 3365, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 21, as follows:

[Roll No. 578]

YEAS—413

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
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.
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
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
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
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
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
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
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
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—21

Akin
Bell
Bradley (NH)
Case
Castle
Dooley (CA)
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Lampson
McCotter
Miller (NC)
Ortiz
Pearce
Peterson (PA)
Rodriguez
Stupak

□ 1741

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETERSON of Pennsylvania. Mr. Speaker, on rollcall No. 578, I was unavoidably detained. Had I been present, I would have voted ''yea.''

ENCOURAGING PEOPLE'S REPUBLIC OF CHINA TO FULFILL COMMITMENTS UNDER INTERNATIONAL TRADE AGREEMENTS, SUPPORT UNITED STATES MANUFACTURING SECTOR, AND ESTABLISH MONETARY AND FINANCIAL MARKET REFORMS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 414.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and agree to the resolution, H. Res. 414, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 1, not voting 22, as follows:

[Roll No. 579]

YEAS—411

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner

Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoeffel
Hoekstra
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
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
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
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
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
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
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
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
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
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
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—22

Akin
Bell
Bradley (NH)
Case
Dooley (CA)
Fletcher
Frost
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hinojosa
Holden
Jenkins
Lampson
McCotter
Miller (NC)
Ortiz
Pearce
Rodriguez
Stupak
Woolsey

□ 1748

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, I regret that I was unavoidably detained. Had I been present, I would have voted "yes" on rollcall Nos. 576, 577, 578 and 579.

PERSONAL EXPLANATION

Mr. GREEN of Texas. Mr. Speaker, earlier this evening, I regret I was called away on urgent business and missed the vote on rollcall 576, 577, 578 and 579. I would like the RECORD to reflect that had I been present, I would have voted in the following manner:

On rollcall 567, I would have voted "aye".

On rollcall 577, I would have voted "aye".

On rollcall 578, I would have voted "aye".

On rollcall 579, I would have voted "aye".

MESSAGE FROM THE PRESIDENT

Message writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. BECERRA. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1308, the Child Tax Credit bill. The form of the motion is as follows:

Mr. Speaker, I move that the managers on the part of the House and the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

One, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

Two, the House conferees shall be instructed to include in the conference report the provision of the Senate amendment, not included in the House amendment, that provides families of military personnel in Iraq, Afghanistan and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

Three, the House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

Four, to the maximum extent possible within the scope of conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and families of the astronauts who died in the *Columbia* disaster.

Five, the House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1626

Mr. CARSON of Oklahoma. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1626.

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

There was no objection.

PERSONAL EXPLANATION

Ms. KAPTUR. Mr. Speaker, due to my attending the funeral of a member

of our family on Wednesday, October 8, 2003, a day for which I requested and was granted leave of absence, I missed five recorded votes.

I would like the RECORD to reflect that had I been here for these votes, on rollcall 535, final passage of H.R. 3108, Pension Funding Equity Act of 2003, I would have voted ''yea.''

On rollcall 536, H.R. 2297, Veteran Benefits Act of 2003, I would have voted ''yea.''

On rollcall 537, H.R. 2998, to amend title 10, U.S. Code, to exempt certain members of the Armed Forces from the requirement to pay subsistence charges while hospitalized, I strongly support this bill and have been complaining to the Secretary of Defense regarding unconscionable charging of $1 per minute for men and women on duty in Iraq who want to call home, and would have voted ''yea.''

On rollcall 538, H. Res. 355, commemorating the 100th anniversary of diplomatic relations between the United States and Bulgaria, I would have voted ''yea.''

On rollcall 539, expressing the condolences of the House of Representatives in response to the murder of Swedish Foreign Minister Anna Lindh, I would have voted ''yea.''

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Mr. FILNER. Mr. Speaker, pursuant to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 6, the Energy Policy Act.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 be instructed to reject section 12403 of the House bill, relating to the definition of oil and gas exploration and production in the Federal Water Pollution Control Act.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mrs. CAPPS. Mr. Speaker, under rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1, the Medicare Prescription Drug and Modernization Act.

The form of the motion is as follows:

Mrs. CAPPS of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed as follows:

One, to reject the provision of subtitle C of title II of the House bill.

Two, to reject the provisions of section 231 of the Senate amendment.

Three, within the scope of the conference, to increase payments for physician services by an amount equal to the amount of savings attributable to the rejection of aforementioned provisions.

Four, to insist upon section 601 of the House bill.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Ms. DELAURO. Mr. Speaker, pursuant to clause 7(c) of House rule XXII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2660, the fiscal year 2004 Labor, Health and Human Services, Education and Related Agencies Appropriations Act.

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2660 be instructed to insist on the Senate level for part B of the Individuals with Disabilities Education Act.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. OBEY. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the highest funding levels possible for programs authorized by the No Child Left Behind Act.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

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

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me the time. I thank him for presenting this motion to instruct, and I thank him for his extraordinary leadership on behalf of America's children. His lifelong service in the Congress and commitment to America's children is an example to all of us. He knows the education issue chapter and verse, and he gives us a very important motion to vote on this evening.

Mr. Chairman, agreeing to the highest level in a conference, as the gentleman from Wisconsin's (Mr. OBEY) motion to instruct calls for, is the very least that we can do for the children of America. As my colleagues know, earlier, not in this Congress but a Congress before, we authorized the No Child Left Behind legislation. It was groundbreaking. It called for standards in the schools, and it was controversial. It received bipartisan support. It was the President's initiative, and it received bipartisan support in the House, in the Congress.

It was never imagined, I do not think, that when we would go forward with these mandates on public schools in our country that we would give them the mandates and withhold the money. That this bill falls $8 billion short on funding for Leave No Child Behind is appalling, and it is impossible for the schools to meet the mandate.

President Bush and the Republicans have made a great show in supporting education, and they have promised with great fanfare Leave No Child Behind, but when they cut billions of dollars from the bill, they are leaving millions of children behind. When it comes time to keep the promises, President Bush and the Republicans in Congress take a recess from responsibility and again leave millions of children behind.

No matter what else students have learned in school this year, students and their parents across the country have learned a valuable lesson about the Republicans. They do not keep their promises on education. The appropriation bill the Republicans passed this summer falls a staggering $8 billion below the funding level promised in the Leave No Child Behind bill. It only funds a small portion of what was promised for Title I, the program that helps at-risk students master the basics.

It falls more than $1 billion short of the special education funding promised in the recently passed Individuals With Disabilities Education Act reauthorization bill, a 55 percent gap between what the Republicans promised and what they delivered.

The vote on this appropriations bill clearly defined the differences between the parties. Not one single Democrat voted to support this affront to America's education needs and with good reason. I will just take my own State of California for example. It underfunds our needs in California by $1.3 billion for our children. In Georgia, it underfunds by $280 million. When my Republican colleagues voted for this bill, if they were from Georgia, they voted to shortchange the children of Georgia by $280 million; in Arizona, $168 million. The list goes on and on.

By voting for this bill, Republicans showed that all of their rhetoric supporting education is just that, empty rhetoric. It is yet another example of the credibility gap between the rhetoric around here and the harsh realities of the budget priorities the Republicans have. It is more important for them to give tax breaks to corporations, moving manufacturing jobs offshore. It is more important for them to give tax breaks that are even described by the CATO Institute in a negative way to the energy sector.

□ 1800

Everything seems to be more important to the Republicans than the education of America's children.

Today, Members have the opportunity, thanks to the gentleman from Wisconsin (Mr. OBEY), to close the gap between the rhetoric of that education and funding for education. His motion calls for keeping our promises. This is not to restore the full funding. We do not have that opportunity. Republicans will not give us that chance. But at least it tells us to go to the highest funding between the two Houses. As I said, it is the least we can do for America's children.

With that, Mr. Speaker, I once again commend the gentleman from Wisconsin for his great leadership on behalf of educating America's children.

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

I find it fascinating, Mr. Speaker, that my colleagues on the other side of the aisle today seek to instruct conferees to adopt certain higher funding levels for education when less than 3 months ago they stood on this very floor and voted against providing the funding for many of these same programs.

The Labor, Health and Human Services and Education appropriation bill that this body approved in July was a fair and balanced bill. In the area of Federal education spending, we provided increases in education totaling $2.2 billion, or 4.5 percent. Further, within these increases are the highest levels of spending for both title I programs and special education, IDEA programs, today. Finally, let me remind my colleagues that not only did the bill include increases in both those highly visible education programs, but it also included increases in other numerous important education programs as well.

Mr. Speaker, I just want to run through the list of education programs that were increased in funding in this bill over last year: title I grants to school districts, Even Start, Reading First, Early Reading First, literacy through school libraries, migrant education programs, programs for neglected and delinquent youth, comprehensive school reform, Impact Aid payments for children of military families, mathematics and science partnerships, after-school centers, State assessments, education for homeless children, education programs for rural school districts, teacher enhancement programs, charter school grants, credit enhancement for charter schools, mentoring programs, physical education programs, special education programs, preschool programs for disabled children, grants for special needs infants and their families, vocational rehabilitation grants for adults with disabilities, independent-living grants for adults with disabilities, services for older blind individuals, National Institute on Disability and Rehabilitation Research, American Printing House for the Blind, National Technical Institute for the Deaf, Gallaudet University for the Deaf, vocational education State grants, adult education State grants, smaller high schools, Pell grants, Hispanic Serving Institutions, Historically Black Colleges and Universities, TRIO programs for first-generation college students, GEAR UP programs to encourage minority students to attend college, Teacher Quality Enhancement Grants, Howard University, education research, education statistics, national assessment of educational progress, and national assessment governing board.

Every one of those education programs had an increase in our bill over last year.

Mr. Speaker, this body passed a responsible Labor, Health and Human Services and Education appropriation bill in July. The bill was within the subcommittee's allocation and the budget resolution. Let us work to finish our conference with the other body so that we can complete the people's work for the year and fund these important programs that give hope to the children of the families of our Nation.

I would like to point out that a previous speaker mentioned the fact that the President has not supported the programs in the No Child Left Behind bill. Since No Child Left Behind was signed into law, Federal spending for major elementary and secondary education, including funding for children with disabilities, has increased by approximately 34 percent, from $24.5 billion in fiscal year 2001 to $32.8 billion in fiscal year 2003. So I think that this clearly says that the President and the majority party have supported responsible increases to fund the No Child Left Behind programs.

Mr. Speaker, I urge adoption of this motion to instruct because we want to provide the most money possible for education, too. And I agree with the gentleman from Wisconsin that we should do as much as possible, and the gentlewoman from California, the minority leader; but we have to live within the budget constraints. We do not do the budget in our committee; we live with the money that has been provided by the Committee on the Budget. And I think we did a very responsible job given the constraints of the amount that was budgeted for Labor, HHS and Education by a vote of this House when they approved the budget.

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

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, the previous speaker, my friend, the gentleman from Ohio (Mr. REGULA), has talked about all of the vaunted increases in the Labor, HHS appropriation bill. But the fact is that if we take into account inflation, and if we take into account increases in student population, what we are talking about for most programs in real terms is a freeze, and in per capita student terms what we are talking about in many of these programs is, in fact, a per-child cut. And that comes at the same time that States are experiencing excruciating budget problems, which ought to require the Federal Government to provide more help, not less, and yet that is not what we are getting.

Now, the gentleman can talk all he wants about the increases we have had over the past few years in education funding. The fact is that over the last 9 years, $20 billion in additional funding was put into education above and beyond the amount that would have been provided by Republican bills in this House because of the negotiating insistence of Members on this side of the aisle, and in some of those years the Clinton administration.

Now we have a different picture. This fall, some 22,000 students in 44 States and the District of Columbia have been notified that they failed to meet their academic targets set by States under the No Child Left Behind Act, that is, they have failed to make adequate yearly progress under the terms of that act. That is nearly one in four public schools across the country that will need additional teachers, tutors, books and curricula, and up-to-date technology to improve their academic performance and to meet the No Child Left Behind mandates. They include 576 schools in Illinois, 1,000 in Texas, 1,033 in Missouri, 2,770 schools in Florida, and 829 schools in Ohio, according to their State education departments. And some of these States are in the midst of a huge financial crisis.

This motion to instruct is, at best, a modest effort to prevent some of these 22,000 schools from being left behind. It is a modest instruction because the procedural constraints facing us limit us in what we can ask. We instruct the House conferees to go to the highest possible funding levels for No Child Left Behind programs that would roughly double the modest increase in the House bill if each program were funded at the higher of the House or Senate level. We should be doing much more.

Mr. Speaker, when the President came to office, he said that education would be a top priority, but that there would be no new money until we reformed the programs. So we took a flyer. We took the President at his word. We gave him the benefit of the doubt, and a lot of us voted for No Child Left Behind. That act imposed all kinds of accountability measures and mandates. Now, 2 years after the enactment of that legislation, we have the smallest new Federal investment in education in almost a decade under both the House and the Senate bills. The Labor, HHS bill adopted by the majority barely provides an inflation increase for No Child Left Behind, a freeze in real terms. It falls a whopping $8 billion short of the funding schedule that was promised in No Child Left Behind.

Because the majority has chosen to put so much of its money in super-sized

tax cuts, there is very little money left to fulfill the majority's own promises made in their own budget resolution. Let us inventory those promises:

It was the Republican budget resolution that promised to provide $3 billion more for education compared to last year; yet the Republican Labor, HHS bill falls $700 million short of their own promise. It was the Republican budget resolution that promised to provide a $1 billion increase for title I grants to low-income schools; yet the Republican bill falls $334 million short of their own promises. And it is the majority Labor, HHS bill that falls short in other areas as well.

The No Child Left Behind Act mandates that every school in America have a highly qualified teacher in the subjects of english, reading, math, science, foreign language, civics, government, economics, art, history, and geography. Yet the Republican Labor, HHS freezes funding for teacher training at $2.9 billion, $244 million short of the $3.2 billion promised 2 years ago. There is no more money for teacher quality at a time when the Department of Education says that 46 percent of the Nation's secondary schoolteachers do not meet the No Child Left Behind highly qualified criteria.

More than one million disadvantaged children could be helped if the after-school program was fully funded at the No Child Left Behind level of $1.75 billion; yet the Republican Labor, HHS bill freezes funding for after-school centers when communities across the country are struggling to provide safe places where kids can learn and play between the hours of 3 and 6 p.m. One million at-risk children will be left behind.

Recently, I received a letter from a dedicated school principal at the Colwyn Elementary School in Pennsylvania who wrote this: ''I am left wondering how is it that schools can be labeled as failures when so many of our children enter schools already left behind. And if schools are to fix all the societal ills that haunt our students, why is the funding not there for our schools, especially the urban schools, where our most needy students are?''

Mr. Speaker, unfortunately, we are at a place where we will not be able to answer that dedicated school principal's call for more funding because of the policies of the majority party. These policies say that we can afford super-sized tax cuts for the wealthiest Americans, but cannot afford $3 billion more to educate America's children. Faced with the choice between tax breaks for millionaires and making sure that all children have an opportunity for a quality education, the majority has made it clear where it stands. As a result, millions of children will be left behind.

Now, I know the gentleman from Ohio does not like the fact that we do not buy into his bill. We have never criticized the gentleman or the committee for the priority choices they have made. What we have said is that the limitations imposed on the gentleman are unacceptable to us, and we have a right, and indeed an obligation, to follow our consciences to try to get more money in this bill, just as we did every year for the last 9 years.

If we had rolled over the last 9 years to the argument that, oh, this is all the budget allocation will allow us, we would not have that $19 billion that the gentleman so anxiously voted for after we leveraged it into the bills over the objection of the gentleman's own party leadership in this House.

So I think the gentleman needs to recognize that, and the House needs not only to pass this motion, which does not begin to cover the need; the House needs to provide substantially more resources for this bill if we are to meet the needs and to meet the promise that so many of us signed on to when we voted for No Child Left Behind just a few months ago.

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

□ 1815

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

Mr. Speaker, I would point out that the gentleman's party had control of the Presidency, the House, and the Senate in fiscal years 1994 and 1995. During this time, Congressional Democrats voted to cut the Department of Education by over $3 billion below levels recommended by their President, President Clinton. The final 1994 increase was only 3.6 percent; the final increase in 1995 was only 2.4 percent. And remember, they controlled everything; and we propose in this bill to increase it by 4.5 percent.

Mr. Speaker, I yield 6 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, let me thank the gentleman for yielding me this time.

Before we vote on this rather meaningless motion which I will probably support, I think it is important that we try to frame it in a proper context. I think what we have tonight is a vote that is politics, pure and simple. Virtually every Member supports providing the highest possible funding for the key programs in No Child Left Behind, and I fully expect whatever agreement we are able to reach with our colleagues on the other side of the Capitol will meet this goal. We will, once again, provide another major increase in funding for Federal education programs, the third major increase since No Child Left Behind was enacted into law.

We have heard all year about this so-called under funding of education programs. I would point out that we have a dual process in this Chamber of authorizing and appropriating. The authorized level is the cap, the maximum amount that can be spent. At no time during my experience, the 13 years that I have been here, have we ever fully funded, as Members would describe it, these education programs.

As a matter of fact, in fiscal year 1995, the last year that Democrats ran the Congress and had the White House, the authorization for title I was $13 billion, and yet the actual funding for that program came in at $10.3 billion. I do not recall any Member of the House, Republican or Democrat, or the Senate, claiming we were underfunding our education commitment.

Now, when it comes to the issue of whether we have kept our promise under No Child Left Behind, let us recall what the promise was. The promise was to have a significant increase in spending to help support the goals of No Child Left Behind. So what did we do? Fiscal year 2001, $24.5 billion. What happened when we passed No Child Left Behind, an increase of $5.4 billion to $29.9 billion. That is a real increase.

Then we went to $32.8 billion, and this year we are at $34.6 billion. Now, these are the numbers. They are real. No one can say we have not kept our promise because we have had a significant increase in Federal education spending.

Let us look at the largest of these programs where a lot of the money is, and that would be in title I, the money that goes to poor students and poor schools across the country. These bars here in yellow are the years when the Clinton administration was in office, and the red years are the Bush years. What do we see, significant increases since No Child Left Behind was put in place.

As a matter of fact, to put it in even better perspective, during the 8 years that President Clinton was President, half of the time Democrats controlled one or both Chambers, the increase during those 8 years under President Clinton, $2.4 billion in title I funding over 8 years. That was the increase. What has been the increase over the first 3 years of the Bush administration, $2.9 billion.

Now, to say we have not dramatically increased our commitment to education is just not true. But as I said before, all of us in this Chamber support trying to fund these programs at the maximum allowable level to get as much money as we can out there to help poor children have a chance at a good education.

But as the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce and others sitting here would attest to, if money were to have solved all of the problems in K–12 education, we would have solved them long ago. Some of the biggest spending levels in our country are in urban centers which happen to have the worst schools.

One only needs to look in Washington, D.C., the third highest level of spending in any urban district in America, and without a doubt, the worst schools in America. Money will

not solve the education woes in our country. It is attitudes. It is attitudes and a commitment and a discussion about whether we, as a Nation, are willing to educate all of our children.

We have had this discussion for a long time, and we all talk about public education and how important it is, but our Nation has never attempted to educate all of our people. We have never had a real commitment to educate all of our children. We have embarked on an effort to try to get to that goal. It is not going to be easy, and I am not sure we even know what the answers are in terms of how we educate all of our children. But I think we are going to learn those answers.

Again, I am not sure that money is going to solve those problems. We need to have real changes of attitudes in our schools, in our communities, about really helping poor children have the same chance in life that all of us have had. They deserve that chance, just like our children deserve that chance, to get a good education. It is not happening today. I do think with the passage of No Child Left Behind, one of the most bipartisan bills of this session of Congress, we can begin to move toward that goal. We are meeting our commitment on the Federal end, and I know the States are having problems meeting their commitments to their local schools. We wish they would do more; but please, do not come here and say we are not meeting our commitment to helping every child get a chance at a good education.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. LOWEY), a member of the Committee on Appropriations.

Mrs. LOWEY. Mr. Speaker, we are on the cusp of implementing a bill that will fall at least $8 billion below the levels authorized in the No Child Left Behind Act. Our failure to uphold the promises made just 2 years ago will be felt in classrooms throughout America by every school-aged kid. I agree that we have to deal with attitudes. There are a lot of problems, and all of the problems of a community converge on our school systems.

But, Mr. Speaker, I visit our schools which have to face the mandates included in No Child Left Behind. They are facing massive teacher shortages, and that has to be resolved by money and training. We have to ensure that every teacher of an academic subject be highly-qualified by 2006 and administering annual assessments in reading and math by 2006. America's schools should not have to choose between the need to recruit and train new teachers, implement antidrug programs, and pay for urgent school renovations. I would like my colleagues to visit some of these schools that are trying to educate these kids without enough books, without enough dollars, without enough teachers with adequate training.

If we do not retool our efforts during the Labor-HHS conference, we will impose a great burden on our school administrators, board members and parents. For example, the NCLB Act promised to provide school districts with 40 percent of the Nation's average per pupil expenditure for each low-income student. The title I program already does not meet the overwhelming needs across the country, but NCLB was a step in the right direction. Many of us voted for it. There was broad bipartisan support.

However, in this Labor-HHS bill it is $6 billion below the authorized amount. What does that mean for needy children? In New York State alone, almost 460,000 eligible children would not be fully served by the program. This morning, the Afterschool Alliance released a poll demonstrating the public's broad, unwavering support for after-school programs. And, quite frankly, the numbers leapt off the page. They made clear that Americans, not just parents of school-age children, but all Americans, across the board, believe that after-school programs are a sound investment. Eighty percent said after-school is nothing short of an absolute necessity. That is not just support, that is extraordinary support.

After-school programs keep kids safe, help them learn, help working families. No Child Left Behind set out a prudent road map for growing the 21st Century Community Learning Centers Initiative, but since the moment the law was enacted, we have gotten off course. Not only did the administration's fiscal year 2004 budget propose a cut of $400 million, or 40 percent to the 21st Century After-School Program, but both the House and the Senate Labor-HHS bills fall 40 percent short on funding for the 21st Century Initiative, providing just $1 billion of the authorized $1.75 billion for the current fiscal year. That funding gap translates into more than 1 million children being left behind after school.

I want to say in closing, sometimes we look at these numbers, it sounds great, a billion here, a billion there, but when we are cutting a million dollars or a billion dollars from a key program such as that, that is reflected in real children and real lives. I urge Members to try and get these dollars up so we can be educating all of our children. These programs are critical. I thank the chairman for all of the good work he has done, and I hope we can work together to truly get these numbers up so we can satisfy the tremendous needs out there.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi (Mr. WICKER), a distinguished member of the subcommittee.

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

The chairman of the full authorizing committee just made a statement that I think is very instructive. He called this motion rather meaningless. If our colleagues do not know by now, they should certainly be apprised that all of these motions to instruct that are being brought during the waning days of this session of Congress are nonbinding. They offer us an opportunity to have an hour of debate on a particular issue, and that is instructive; but even if this motion were completely binding, I do not know how we could enforce it, because it simply says that the conferees be instructed to insist on the highest funding levels possible for programs authorized by No Child Left Behind.

Now, if that means the sky is the limit, then I might have to disagree with my chairman and the chairman of the authorizing committee. We may not want to do that because I do think we should exercise some discretion in the amount of funding. But if it means we are going to do the very best we can, within the confines of the budget resolution, as our chairman has done, then I do support that concept. So I am a little torn, Mr. Speaker. On principle, should I just vote no because it is a meaningless exercise, or should I go along with my chairman and the chairman of the authorizing committee?

This, I think, is an opportunity for my friends on the other side of the aisle to try to point out to anyone who is watching that they would spend more money on education if they were in charge and that they would spend a lot more money if they possibly could. They will make that case, but I am not so sure about that contention.

The fact of the matter is when the Democrats had control of the Presidency, the House and the Senate, fiscal years 1994 and 1995, they did not fully fund their education bill. As a matter of fact, President Clinton proposed a figure for the Department of Education, and the Democrats and the Congress cut that figure by some $3 billion below the level recommended by their own President, failing to ''fully fund'' the request of their President.

□ 1830

During the time of Democratic control of Congress, Mr. Speaker, they funded only 20 percent of the IDEA program for fiscal year 1994.

By contrast, in the last 8 years of Republican control in the House of Representatives, Federal funds for education have more than doubled. So I think we can be proud of our record on education, Mr. Speaker, as compared to the prior 6 years under Democrat leadership where they funded Federal education programs by an increase of only 47 percent. Republicans doubled education funding. The Democrats increased funding by only 47 percent. So when it comes to numbers, we really do not have anything to be ashamed of on this side of the aisle.

I would point out to my colleagues that during these past years of Republican control, this House of Representatives and this Congress has increased title I aid to disadvantaged students by 84 percent; increased special education grants to States—that IDEA program

that I mentioned—by some 330 percent for IDEA programs; and tripled funding for reading programs during Republican rule, Mr. Speaker. We have increased Federal teacher quality funds. We have increased the maximum Pell grant by some 64 percent. We have increased Head Start funding by 91 percent under Republican control. And we have increased Federal aid to America's Historically Black Colleges and Universities.

I am proud of what we have done. Of course, raw numbers are not the only answer. The problem with much of American education is the accountability and results, and that is what we think No Child Left Behind is changing. I want to commend Chairman REGULA for working across the aisle for a balanced bill that funds many competing programs. He has produced a good result. I believe the conference will do so, too. I just want to congratulate my chairman for funding education as best as we possibly can.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Rhode Island (Mr. KENNEDY), a member of the subcommittee.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to thank my colleague, the gentleman from Wisconsin (Mr. OBEY), for his long leadership on the issue of education and his offering his motion to us today on the floor.

In response to my colleague from Mississippi who said all we need to do is look at the numbers, I think that would be interesting. I think if this Republican administration ran on us just looking at the numbers, they would be thrown out of office quicker than we can look at the door. We have gone from nearly a $5 trillion surplus to a $5 trillion deficit. The very children they claim to support are children that are going to be saddled with nearly a $600 billion deficit, deficit, this year because this President has chosen to cut the taxes of the wealthiest 1 percent of our population.

Two-thirds of the tax cut goes to the wealthiest 1 percent in the form of capital gains dividends and estate taxes. Who is going to pay for these taxes? It is going to be the children of today's generation and our children's children that are going to be saddled with this debt. So I do not want to hear from Members of the other side of the aisle about how Democrats underfunded education. At least we left the children of this country a $5 trillion surplus on which to build a future.

When it comes to Leave No Child Behind, the fact is the numbers do tell the truth. The numbers tell us that when it comes to the President's commitment to making sure we leave no child behind, the commitment is nothing but words. Mr. President, we want action, not rhetoric. We want you to put your money where your mouth is. You have not done it. By refusing to provide the promised funding, the Leave No Child Behind Act has become an albatross around the necks of school committees around our country. The people who are watching this who can listen to the gentleman from Mississippi say that all of this is worthless debate, I will just tell you this. Go talk to your local school committee. Go talk to your local city council person and have them tell you how much property taxes are going up in order to make up the difference in the requirements that the Leave No Child Behind Act have put forward. Requirements for new systems of assessment for children, not funded in the bill. Requirements for new enrollment status and graduation records so that we can track these students and thereby be able to measure their progress, no funding under the bill. Funding for massive databases and new standards, inadequate funding under the bill.

The fact is if you look at the bill itself and you look at what this Congress is doing, it is sending the bill for this Leave No Child Behind Act to our property taxes. Make no mistake about it, it is cutting Bill Gates's taxes, but it is sending the taxes back to our local property taxes in order to fund the deficit in this Leave No Child Behind Act.

Mr. REGULA. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. CUNNINGHAM), a very valued member of our subcommittee.

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

Mr. CUNNINGHAM. Mr. Speaker, the gentleman who just spoke said that they left this House with $5 trillion. Well, in 1993 the rhetoric that they said, let us give tax breaks to the middle class, they raised the tax on the middle class. You increased the Social Security tax. You cut veterans COLAs. You cut military COLAs. You spent every dime out of the Social Security trust fund. And where you promised tax relief for the middle class, you increased it. And guess what? Republicans took the majority. And we reduced Social Security increases. We gave money back to the middle class so that they would have money to spend on their education systems. Not a single Democrat budget or economic policy has passed since. Not one. Not even the Blue Dogs. And so for you to take credit for the surplus is ridiculous.

Unfortunately, it is an election year. I am going to vote for this motion. But what it is, as you can see from my colleagues on the other side, it is election year partisanship Republican bashing. That is all it is. They know that this is meaningless. But all they want to do is sit up here and bash Republicans.

I am going to give you a couple of issues. You know that when we talk about how we finance education, my friends on the other side, anything to do with unions, they will not cut. Davis-Bacon for school construction, the right-to-work States save up to 30 percent on school construction, but do you think my colleagues on the other side would support a reduction in Davis-Bacon just for building schools? Absolutely not. That is where they get their campaign dollars. When you start caring about education more than you do the unions, come talk to me.

Alan Bersin, Democrat under Bill Clinton, is the superintendent of San Diego city schools. His number one problem in the State of California, it was Gray Davis, it is not now, his number one problem is trial lawyers who are ripping off the schools for special education. In the D.C. bill at least we capped trial lawyers' fees. In 1 year we are giving $12 million for special education students, for special education programs, for special education activities, not to the trial lawyers. But do you think my friends on the other side would do that? No way. If you want to increase money, take a look at your own rhetoric.

I am going to vote for this motion, but I want to tell the gentleman, when the gentleman from Wisconsin (Mr. OBEY) said that he drug Republicans for educational spending, the only thing the Democrats are doing right now is dragging their anchor. They are going to vote against the bill, and they do not want people to know that they are going to vote against education; and that is exactly what they are doing. This is another reason for them saying, all the mean Republicans. If you vote against this bill, you are voting to cut education, the very thing that you are bashing Republicans for. I resent the implication. You know how hard most of us work, on both sides of the aisle. My wife was chief of staff for the assistant Secretary of Education. I was a teacher and a coach in high school and college and dean of a college. My sister-in-law is in charge of special education in San Diego city schools. I stayed on the D.C. committee to improve education. And for your leadership to sit up here and say Republicans do not care about education, I resent it. I wish I could say more, but my words would be taken down.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, Republicans on the other side of the aisle keep saying it is not about the numbers, and then they want to argue the numbers. Let me agree with them: this is not about the numbers. This is simply a question of values and ethics. This is whether or not this President and this Republican Party that controls the Congress of the United States will keep their word to America's children and to their parents and to the school districts and the teachers across this Nation.

It is all interesting what you want to talk about before No Child Left Behind passed. But No Child Left Behind is the

most significant reforms we have made to American education in 35 years. And we did it with full knowledge of how much money we were spending, and we did it with full negotiations with this President about the reforms and the significance of these reforms; and this President said, if you can get these reforms, I will get you the resources. We now find out he just simply was not telling the truth. He told the truth for 1 year. He just could not tell the truth for both years, because the resources are not there. We told schools that this Nation wants you to have 100 percent of our children proficient at grade level in 12 years. Schools are working hard to do this. And there are mixed results. But they are doing it. They are working at it. And now we have identified each and every child that is not meeting that standard. Those are called schools in need of improvement.

What do we say in the Federal law for schools in need of improvement? We said we will give you additional money in the second and third year to turn those schools around, to reconfigure those schools to get different results. Those are the exact schools that need the money this year, and it is not there because this Congress and this President refuse to provide it. So what do those poor children do? They have been told that they need improvement. Later there could be sanctions against these schools at the State level, and we have pulled back the money that they were going to use to improve those schools. The Governors have taken the heat for identifying those schools. The school superintendents have taken the heat for identifying these schools. Parents are upset. But the whole idea was that we would help you turn those schools around because it is important to our country, it is important to these children, it is important to their families. But on the eve of the moment that that is supposed to happen, this President reneged on his promise. He got the reforms on a big bipartisan basis, and school districts all across the country are trying to make them work, and he walks out on them because he did not put the money in his budget, and he is encouraging the Congress not to go forward with these kinds of increases.

This motion to instruct is not meaningless. It is important. It is about values. It is about truthfulness. It is about the ethics of our profession when we promise the American people we will do something and then we fail to do it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). The Chair will remind Members that it is not in order to refer to the President in personal terms. Although remarks in debate may include criticism of the President's official actions or policies, they may not include criticism on a personal level such as accusing him of not telling the truth.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentlewoman from Kentucky (Mrs. NORTHUP), a very productive member of our subcommittee.

Mrs. NORTHUP. Mr. Speaker, I rise to add my voice to others' about the importance of education and making sure that quality education is available to every child. As the mother of six children, when I have students that visit Washington, they often ask me, where did you learn what you needed to know to be a Member of Congress? Of course, they expect me to talk about my years in the State legislature or what I studied in college. But I tell them the answer and I tell them that the truth is I learned most of what I needed to know as the mother of these six children, all of whom had different talents and different challenges, all of whom went through school needing the advice and the special programs that would be available to them so that they could succeed.

□ 1845

That is what is so important for all the children in this country, and that is what we are struggling with.

I believe my colleagues on the other side of the aisle also want every child to have an opportunity for a quality education, and they have always focused on input, asking for more programs and more dollars. In fact, my experience in Washington, compared to my experience in the State legislature, has been a take-your-breath-away experience over the last 7 years, as every single appropriation meeting is about more, more, more; more dollars, more programs. No matter how much more is proposed, there are always amendments to spend even more than that.

In every single markup of education bills and other bills, there are proposals for $1 billion here and $1 billion there. I will never forget sitting in one markup for one education appropriation bill, and there was over $10 billion proposed for new spending, something that the Democrats voted for almost en masse in that markup of that bill. Every program, more money, more money, more money.

On the other hand, as a mother, what I found is that I needed to be able to go to school and talk to my children's teachers and ask, what can we do to help this child with their math? What can we do to help this child with reading? I needed to know that for the children that were disorganized, that the teacher would help me in formulating a program to help them become more organized; that for the child that struggled in writing, we could address those challenges.

And what teachers tell me in my district is nothing about more money, more money, more money. That is not what parents talk about. They talk about red tape; they talk about their hands tied; they talk about Federal limitations.

When No Child Left Behind was passed, overwhelmingly I heard thank you for rolling so many of these different programs together, giving teachers and schools the ability to address the challenges that were unique to their school. Did they need more computers? They could spend the dollars there. Did they need more remedial reading programs? They could spend the dollars there. Did they need more flexibility, so that the challenges of other children could be met? They could do that. Instead of having every single dollar sort of outlined for them, they could address the unique challenges that their students, in their schools, had.

What our side of the aisle has focused on is not only investing more money in education, but in the outcome, how do we make sure that those dollars help children achieve at a higher level? And why is that important? Because, after all these years of Federal investments, what were we looking at when we passed No Child Left Behind? Sixty-eight percent of our fourth graders could not read at grade level. We knew that minority children and children from disadvantaged families were falling behind at even a faster and greater rate than any time in our past, so we knew that we had more money, and more programs were not the answer.

Many of the objections that my colleagues on the other side of the aisle refer to are actually talking about programs that have been wrapped together so that a school that needs more after-school programs can spend the dollars in a way that meets those needs; schools that need more tutoring or more intervention for kids that have learning disabilities can use the dollars there. What we are talking about is not only the investment, but making sure we get the benefits of those investments.

I want to thank our chairman. He has done a wonderful job of making sure that with No Child Left Behind, that we invested 18 percent additional dollars into our school systems. There are those that think that before those dollars are even out the door, that that is not enough. They almost imply that that 18 percent is not carried over to the next year and the next year. But, of course, we have built on that each year since then. I thank the chairman for the balance and the investment for our children.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Speaker, I thank my friend from Wisconsin for yielding me time.

Mr. Speaker, the gentlewoman from Kentucky just said the majority is interested in outcomes. Well, let me tell you what the outcome of the No Child Left Behind Act has been for thousands of schools across America. This law, which has had great potential to create learning opportunities for children, is creating great havoc for the schools of America.

Public educators across the country, who were told that they would receive

more help if they needed it, are receiving lectures from the Department of Education about how to run their schools, mandates from the United States Congress telling them what they must do in their schools, and money that falls $8 billion short of the job that we say needs to be done. We said to these public educators, you must test and evaluate every child, every year, between the third grade and the eighth grade, and you, local taxpayers, should pay for it. That was not the commitment of the No Child Left Behind Act.

They have been told that if your school falls into the category of a school that needs improvement, a definition that has been tortured beyond recognition by the Department of Education in its interpretation of this law, if you fall into such a category, you will get the money for the tutoring programs and the after-school programs and the parent academies that work to improve learning. But the money is not here, because we are $8 billion short.

Governing is choosing, and I would suggest to the majority, here is your choice: You can let the No Child Left Behind Act with all of its flaws stay in place and force upon your constituents and mine local tax increases; or you can find the funds to meet the promise this Congress made to those local school districts and pay for the tests and pay for the mandates and pay for the services that are required.

It is the great dilemma of the majority. The budget resolution it passed does not permit them to do so, because this country's educational future, as is the case with so many other priorities in this country, was squandered on the majority's tax cut so we can have a tax cut tilted toward the very wealthy in Washington. We will see increases on everyone else across the country to pay for the mandates of the No Child Left Behind Act.

The right thing to do is to suspend the mandates of the No Child Left Behind Act until the money is there to pay for those mandates. Otherwise, when the gentlewoman talks about local flexibility and local educators being able to buy computers and do tutoring programs, the money they would like to have for those computers and those tutoring programs is being spent on the No Child Left Behind Act.

Support the resolution. Enforce the act properly.

Mr. REGULA. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. WELDON), a member of our subcommittee who works diligently on these tough problems.

Mr. WELDON of Florida. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise in opposition to this motion. The Obey motion to instruct insists on the highest funding levels possible for implementation of the No Child Left Behind Act. The motion to instruct says that unlimited funding is the answer. But higher funding is not an end in itself. In fact, it often represents a failure of government.

What kind of responsibility, what kind of governance, is provided by simply spending more money? None. Instead, we have a system already in place to determine educational spending that provides accountability and results. It consists of local school boards and parents. It consists of State initiatives, like charter schools and vouchers, to enhance academic choice and school accountability.

The President's No Child Left Behind initiative attempts to build accountability and results into what States are doing. When we have no other alternative but to increase funding levels, we say increased funding is all we can do and the system is broken.

If higher funding levels were the answer, the District of Columbia would have some of the highest academic scores in the Nation. But, unfortunately, the opposite is true. Higher funding does not guarantee results. The District of Columbia's school system spends more per student than Fairfax County, just across the river. The academic performance could not be more different.

The answer, I believe, is local control and decision making. In Brevard County, Florida, where I live, a local sales tax initiative is being considered by local officials to support increased educational funding. The same thing is going on in Fairfax County as well. This is what should be done; local control, the decisions of local voters.

I believe the Federal Government needs to get out of the way of local action. We are not local school boards, and we should not pretend to be them either. Let us allow greater discretion at the local school board level and local government level, and let us let them set the majority of the policies. Oppose the Obey motion.

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

Mr. Speaker, we are going to support this motion because we share with the gentleman from Wisconsin (Mr. OBEY) the desire to have the highest funding levels possible for programs on No Child Left Behind. We did that in the bill. Obviously, there is never enough, but we did as much as we could under the constraints of the budget.

I would point out again and reiterate that we increased the funding for 43 programs in education, including title I, including IDEA and a whole host of others. Of course, the motion is simply saying do the best possible job we can.

I know that the gentleman from Wisconsin (Mr. OBEY) and I both share the desire to do as much as we can for education, but we are constrained by the amount of money that is available to us under the budget resolution. Within that, and in the priorities within our bill, we have done every bit possible. Hopefully, in conference, we can reach an agreement with the other body that will even increase some by taking it from other areas. I support the resolution.

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

Mr. Speaker, I will include at the end of my remarks two chronologies.

Mr. Speaker, the gentleman from Ohio has just said that we did the best job that we could in funding these education programs within the context of the budget resolution. I do not deny that. The important part of that sentence, however, is ''within the confines of the budget resolution.''

Our target has never been this bill; our target has been the constraints on our committee imposed by the budget that mean that we will be providing an ever-smaller increase in funding for education at a time when we need to be providing more.

I must say, I am a little bit confused by some of the rhetoric I have heard today. We heard three Republican speakers in a row try to suggest that it was the Republican Party that in fact had done a better job than Democrats in terms of funding education. Then we heard the gentlewoman from Kentucky get up and take the opposite end of the same argument and bemoan and decry the fact that we had the temerity on one occasion to ask for a $10 billion increase in investments in our children.

That is absolutely right. We did, and I make no apology for it. I think we should have done more.

The gentlewoman from Kentucky mentioned people's concern about red tape. The mother-of-all-red-tape programs in the education area is No Child Left Behind.

We gave the President the benefit of the doubt, because he said he wanted the programs reformed before we put more money in. They have been reformed. Now the question is, where is the money?

The fact is that what is happening is that, whether it is denied or not, this Congress, under the policies dictated by the Republican budget resolution, this Congress is walking away from the policies of No Child Left Behind.

For 1 year after that program passed, this Congress had a bipartisan position in support of meeting the goals of that act. But now we see that it was evidently a 1-year promise. We are $8 billion short of where we promised the country we would be if we passed those reforms. In education, we are $3 billion short of where the budget resolution, the Republican budget resolution, promised we would be.

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We are, for title I, $131 million short of where the Republican budget resolution promised we would be. We are $1.2 billion short of where the Republican budget resolution promised us we would be for special education. Those numbers are undeniable.

I would like to close by reading a greater portion of the letter that I received from a Michelle Cinciripino, a

principal in Philadelphia. In part, here is what her letter reads: ''On September 2 we opened a new school year in a brand-new school building and we were off and running, despite the lack of books and other needed supplies. And then Friday came. A second grader ran screaming from her classroom and had to be restrained until she finally broke down in tears and told us she was worried about her mom, a known drug dealer in trouble again with the law. I assured her we loved her and that she was safe at school, and off she went for the weekend. Monday came and this time she came screaming from the building. Several hours and a sound breakfast later, we finally got her back to class. Tuesday and Wednesday followed the same pattern, until Thursday when she came in having been beaten with a belt. I spent Thursday with the police and Child Protective Services. She is now safe with her dad. But I am left wondering, how is it that schools can be labeled as failures when so many of our children enter school already left behind? And if schools are to fix all of the societal ills that haunt our students, why is the funding not there for our schools, especially our urban schools where our most needy students are?''

Then she goes on to say, ''The second grader I mentioned is but one of many hurting, angry children who enter my school on a daily basis. They lack what we take for granted: a safe, loving, nurturing home where their basic needs are met. For these students, my staff and I provide the only consistent safe place these kids know. We want desperately to teach them; but before we can do that, we must feed them and love them. We must gain their trust and we must teach them the social skills that no one has ever shared with them or modeled for them. I hope you will share my story with your colleagues who say that educators 'just don't want to be accountable.' I would be happy to share my story with them in person and can be reached at the above address and phone number.''

I think we ought to take the concerns of that principal to heart.

This motion in and of itself is not the issue. The amount of money that we can provide through this motion in added funding for education is small indeed.

The real issue is whether or not the House, having had an opportunity to once again hear concerns expressed about the problem, whether the House, in fact, will find a way to do more for education than we have done in this bill.

One of the previous speakers said that he resented it because we said that Republicans do not love education. I do not believe that. I think Republicans like education. I just do not think, based on their records, that they happen to like it as much as they like preserving $88,000 tax cuts for millionaires. That is our only objection. And when we have a change in those priorities, we will, once again, have a bill we can both agree on.

Ms. WOOLSEY. Mr. Speaker, I rise in strong support of Mr. OBEY's motion to instruct conferees on H.R. 2660 to increase funding for the No Child Left Behind Act to the highest possible amount.

As we near the end of the second year since No Child Left Behind became law, schools all over America are crying out for more funding in order to meet the new accountability benchmarks.

When I voted for the No Child Left Behind Act almost 2 years ago, I did so with reservations about the new testing requirements. But, I and all of the Members, were assured that while we were going to be asking much more of our schools, we would also be giving our schools increased support. But that is not what happened.

H.R. 2660 underfunds the No Child Left behind Act by $8 billion.

It falls $244 million short of the $3.2 billion that was promised to the States to make sure that there would be a highly qualified teacher in every classroom.

It underfunds after school programs by $750 million, serving one million children less than was promised in No Child Left Behind.

It denies eligible children the title I supplemental education services that they need to succeed in school.

States and schools all across America are doing their part to raise test scores and improve teacher quality. Congress needs to do its part by providing the promised funding. We need to fund programs under the No Child Left Behind Act at the very highest level possible.

Mr. CASTLE. Mr. Speaker, we all have heard the impressive statistics regarding the education funding increases that this Congress and Administration have provided over the past two years. No one can legitimately refute the fact that each year we provide historic increases that are necessary for states and schools across the country.

As someone who worked closely with the Administration and the Committee when Congress passed the No Child Left Behind Act, I have remained committed to following its implementation as well as the funding levels. I have always argued that we should make fundamental reforms to our federal programs before throwing money at them. No Child Left Behind is inciting those reforms and states, school districts, teachers, students and parents across the country are answering the call.

I think we all can agree that change is difficult and that No Child Left Behind reflects that. It is forcing all of us, as a nation, to have an important dialogue about education. A discussion that is being followed by action and dedication to success. It is for these reasons that I believe we are justified in continuing to push for and appropriate increased funding for our education programs. The people on the ground deserve it.

I have always prioritized adequate funding for education programs as well as fiscal conservatism. Given other expenses we have across the country and the world, I believe the House Labor, Health and Human Services and Education Appropriations Act represents a delicate balance between increased funding for federal education programs and fiscal restraint. I support the motion to instruct, however, because all of these education programs deserve to have the highest funding levels possible. Any additional available funding should go to our students.

The SPEAKER pro tempore (Mr. BASS). The time of the gentleman has expired. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The motion was agreed to.

A motion to reconsider was laid on the table.

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

Mr. LINCOLN DIAZ-BALART of Florida (during debate on motion to instruct on H.R. 2660), from the Committee on Rules, submitted a privileged report (Rept. No. 108–335) on the resolution (H. Res. 421) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2115, VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Mr. LINCOLN DIAZ-BALART of Florida (during debate on motion to instruct on H.R. 2660), from the Committee on Rules, submitted a privileged report (Rept. No. 108–336) on the resolution (H. Res. 422) waiving points of order against the conference report to accompany the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

(1) The House conferees shall be instructed to include in the conference report the provisions of section 837 of the Senate Amendment that concern reformulated gasoline in ozone nonattainment areas and ozone transport regions under the Clean Air Act.

(2) The House conferees shall be instructed to confine themselves to matters committed to conference in accordance with clause 9 of rule XXII of the House of Representatives with regard to any matters relating to ozone nonattainment and ozone transport.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

My motion to instruct the energy conferees is very, very simple. There is no provision in the House or Senate energy bills that allow ozone nonattainment areas to extend, or ''bump up,'' deadlines to comply with the Clean Air Act.

Now, House GOP energy conferees, including my respected colleague, the gentleman from Texas (Mr. BARTON), want to include a rider in the energy conference report to overturn four Federal court rulings and amend the Clean Air Act to allow polluted areas to have more time to clean up, but without having to implement air pollution controls. Every time one looks up, it is another extension. This would delay the adoption of urgently needed antipollution measures in communities throughout the country.

Industry officials, environmentalists, local elected officials, the Texas Commission on Environmental Quality, and the Environmental Protection Agency have been working hard in recent months to find a way of complying with the ozone standards in north Texas. The Barton provision destroys that process.

This special interest rider also shows reckless disregard for the health consequences that dirty air has on my constituents and others that live in smoggy cities across the country.

To further delay necessary emissions reductions in ozone nonattainment areas is unacceptable and a betrayal of the public's trust. It is unacceptable, most of all, because it is based on false information that ozone transport jeopardizes attainment for smoggy cities.

An article in my hometown newspaper, the Dallas Morning News, states today that documents and interviews from the Bush administration's EPA show little or no evidence to support claims that Houston's smog is harming the Dallas-Fort Worth attainment of clean air goals.

This is not about jobs versus clean air; this is about a small set of areas seeking to avoid their responsibility under the Clean Air Act, thereby gaining a competitive advantage over other industries in other areas that have complied. The disadvantaged area is quite likely to be in your district.

This provision is blatantly unfair to my constituents and the gentleman from Texas's (Mr. BARTON) constituents who write me all the time and live down wind from the smokestacks in my colleague's district. Under this provision, dirty, unhealthy air will continue to blow downward on to my constituents, possibly until the year 2012.

I am a nurse by profession. The health effects of air pollution imperil human lives. Ozone pollution burns cell walls in the lungs and air passages, causing tissues to swell, chest pain, coughing, irritation, and congestion. Ozone pollution decreases the ability of lungs to function properly. Air pollution aggravates asthma and increases susceptibility to bacterial infection. Long-term exposure to ozone in otherwise healthy individuals could set the stage for more serious illnesses. The cost for asthma, estimated at $11 billion annually, is only part of the total cost of the health care necessitated by exposure to harmful levels of ozone.

The American Lung Association reports that exposure to high levels of ozone air pollution appears to be responsible for up to 50,000 emergency room visits and up to 15,000 hospitalizations for respiratory problems each year. I had a dear friend lose her life this year from this very ailment, a 51-year-old M.D. who had never smoked a cigarette.

In my district, the effects of air pollution are especially compelling. The American Lung Association reports that nearly a half million people in the Dallas-Fort Worth area live with diseases that are aggravated by air pollution. EPA's own consultants found that each year almost 370 residents of the Dallas-Fort Worth area died just because of pollution from the oldest and dirtiest unregulated power plants, and 10,500 asthma attacks are triggered.

To further delay compliance and cleanup will increase health care costs for my constituents at a time when the health care system is broken. Clean air is crucial to the health of north Texans and the future economic well-being of our region.

The Barton ''bump-up'' provision has no business in the energy bill.

I suggest that if my colleague from Texas (Mr. BARTON) and my colleague from Louisiana (Mr. TAUZIN), gentlemen I respect, wish to amend the Clean Air Act, they should do so by showing respect for our legislative process and by using a more appropriate legislative vehicle. But instead, they have language they are not even sharing with people to do it.

Enough is enough. Hard deadlines are necessary to get the job done and clean up our air. This time has been lengthened and lengthened and lengthened and, each time, what is the answer? Another lengthened time.

Our Republican colleagues cannot continue to delay and stall. We have a greater obligation to protect public health than polluters' profits and campaign contributions.

I am disappointed that many Republicans will frame this debate as a trade-off between jobs and the environment. They are dead wrong. I urge my colleagues to vote against giving a clean air holiday to a few areas with the right political connections. I ask my colleagues to put the public health ahead of polluters' profits. Please vote for the motion to instruct.

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

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

First, Mr. Speaker, I want to say I have nothing but the highest personal regard for the gentlewoman from Texas who is offering this motion to instruct conferees. She and I have served together in this body for, I think, approximately 11 years; and we have worked together on many, many issues and spent many, many moments together in very positive dialogue, and I appreciate her bringing this issue to the floor. My objection to the resolution is based on the policy, not on the person who is bringing the resolution.

I do rise in opposition, respectfully, to the Johnson motion to instruct. To put it in the simplest terms, the issue before us today is not whether any Member of this body does not want the cleanest air possible for our citizens; the issue is whether we want to apply common sense to the Clean Air Act and to codify Clinton administration policy that was explicitly designed to avoid what the EPA, under the Clinton administration back in 1994, called an odd or even absurd result that penalizes an area for pollution that is beyond their ability to control.

Let me put this in language that everybody can understand. The Clean Air Act amendments of 1990 categorized in a more definitive way ozone as a pollutant that needed to be regulated, and it set standards. It is the only pollutant in the act that has gradations of standards. For the other controlled pollutants, it is kind of an in or out, yes or no, pass or fail. But for ozone, it has different levels, from very moderate to very severe; and each of the levels has a different standard and a different timeline for compliance.

I am an author of the Clean Air Act amendments. I spoke for them on the floor. I helped to work to put the bill together in the committee. So I have some personal history in this issue.

As the Clean Air Act amendments of 1990 were being implemented, it became apparent that there were many regions of this country that were trying to comply; but because there were other areas down wind from them that had a different timetable and a different compliance criteria, it was making it difficult for some of these regions to comply in the technical sense with the act. So the Clinton administration came up with a proposal that said, we will show some flexibility. If, in fact, you have a State implementation plan that has been approved or is in the process of being approved and if, in fact, it looks like you are making a good-faith effort to come into compliance, we will give you an extension if we think it is meritorious and the reason that you need the extension is because there is another region that is not in compliance that is transporting their ozone pollution to you. That is common sense. There is nothing wrong with that.

I want to put into the RECORD at this point in time, Mr. Speaker, the 1994 Clinton administration policy that was contained in a memorandum signed by then-Assistant Administrator for Air and Radiation, Mary Nichols. This memorandum attempted to reconcile the conflicting provisions of the Clean Air Act and to give effect to as much of Congress' manifest intent as possible. I also want to put into the RECORD the 1998 Clinton administration policy on this issue that was actually published in the Federal Register.

ENVIRONMENTAL PROTECTION AGENCY

EXTENSION OF ATTAINMENT DATES FOR DOWNWIND TRANSPORT AREAS

Agency: Environmental Protection Agency (EPA).

Action: Proposed interpretation; request for comments.

Summary: Today's notice announces EPA's interpretation of the Clean Air Act (Act) regarding the possibility of extending attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour standard and which are downwind of areas that have interfered with their ability to demonstrate attainment by dates prescribed in the Act. The guidance memorandum that is being printed in today's notice is entitled ''Extension of Attainment Dates for Downwind Transport Areas'' and was signed by Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, on July 16, 1998. This notice follows up on the statement made in the guidance memorandum that EPA would request comments on its interpretation.

A number of areas may find themselves facing the prospect of being reclassified or ''bumped up'' to a higher classification in spite of the fact that pollution beyond their control contributes to the levels of ozone they experience. The notice addresses the problem by providing an avenue to extend the attainment dates for areas affected by transported pollution. The EPA intends to finalize the interpretation in this guidance only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations and requests for attainment date extensions. If EPA approves an area's attainment demonstration and attainment date extension request, the area would no longer be subject to bump up for failure to attain by its original attainment date.

Dates: The EPA is establishing an informal 30-day comment period for today's notice, ending on [insert date 30 days after date of publication in the Federal Register].

Addresses: Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6101), Attention: Docket No. A–98–47, US Environmental Protection Agency, 401 M Street, SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Written comments should be submitted to this address.

For Further Information Contact: Denise Gerth, Air Quality Strategies and Standards Division, Office of Air Quality Planning and Standards, US Environmental Protection Agency, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5550.

Supplementary Information: On July 16, 1998, the following guidance was issued by Richard Wilson, Acting Assistant Administrator for Air and Radiation. It should be noted that the July 16, 1998 memorandum reprinted in this notice refers to EPA's proposed NO_x SIP call. After the memorandum was signed, EPA took final action on the SIP call and promulgated a final rule. See 63 FR 57356 (October 27, 1998).

Guidance on extension of attainment dates for downwind transport areas

Preface

The purpose of this guidance is to set forth EPA's current views on the issues discussed herein. EPA intends soon to set out its interpretation in an advance notice of proposed rulemaking on which the Agency will take comment.

While EPA intends to proceed under the guidance that it is setting out today, the Agency will finalize this interpretation only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations. At that time and in that context, judicial review of EPA's interpretation would be available.

Introductory Summary

A number of areas in the country that have been classified as moderate or serious nonattainment areas for the 1-hour ozone standard are affected by pollution transported from upwind areas. For these downwind areas, transport from upwind areas has interfered with their ability to demonstrate attainment by the dates prescribed in the Clean Air Act (Act). As a result, many of these areas find themselves facing the prospect of being reclassified, or ''bumped up,'' to a higher nonattainment classification in spite of the fact that pollution that is beyond their control contributes to the levels of ozone they experience. In the policy being issued today, EPA is addressing this problem by planning to extend the attainment date for an area that is affected by transport from either an upwind area with a later attainment date or an upwind area in another State that significantly contributes to downwind nonattainment, as long as the downwind area has adopted all necessary local measures, and has submitted an approvable attainment plan to EPA which includes those local measures. (By ''affected by transport,'' EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain.) EPA intends to initiate rulemaking for each area seeking such relief and contemplates providing such relief to those who qualify. If after consideration of public comments EPA acts to approve an area's attainment demonstration and extend its attainment date, the area will no longer be subject to reclassification or ''bump-up'' for failure to attain by its otherwise applicable attainment date.

Background

The Act may be interpreted to allow a later attainment date than generally applicable to a particular ozone nonattainment area if transport of ozone or its precursors (nitrogen oxides (NO_x) and volatile organic compounds (VOCs)) prevents timely attainment. This principle has already been advanced in EPA's Overwhelming Transport Policy, which allowed a downwind area to assume the later attainment date if it could meet certain criteria, including a demonstration that it would have attained ''but for'' transport from an upwind nonattainment area with a later attainment date. See Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled, ''Ozone Attainment Dates for Areas Affected by Overwhelming Transport,'' September 1, 1994. In the four years since the issuance of that memorandum, the history of the efforts to analyze and control ozone transport has led EPA to believe that it should expand the policy's reach to ensure that downwind areas are not unjustly penalized as a result of transport.

In March 1995, EPA called for a collaborative, Federal-State process for assessing the regional ozone transport problem and developing solutions, and the Ozone Transport Assessment Group (OTAG) was subsequently formed. See Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled ''Ozone Attainment Demonstrations,'' March 2, 1995. The OTAG was an informal advisory committee with representatives from EPA, thirty-seven states in the Midwestern and eastern portions of the country, and industry and environmental groups. OTAG's major functions included developing computerized modeling analyses of the impact of various control measures on air quality levels throughout the region and making recommendations as to the appropriate ozone control strategy. Based on OTAG's modeling analyses, it developed recommendations concerning control strategies. These recommendations, issued in mid-1997, called upon EPA to calculate the specific reductions needed from upwind areas.

In November 1997, using OTAG's technical work, EPA issued a proposed NO_x State implementation plan (SIP) call, directing certain States to revise their SIPs in order to satisfy section 110(a)(2)(D) by reducing emissions of NO_x to specified levels, which in turn will reduce the amounts of ozone being transported into nonattainment areas from upwind areas. 62 FR 60318 (November 7, 1997). In July 1997, the EPA promulgated a revised 8-hour ozone NAAQS. 62 FR 38856 (July 18, 1997). That promulgation included regulations providing that the 1-hour NAAQS would be phased out, and would not longer apply to an area once EPA determined that the area had air quality meeting the 1-hour standard. 40 CFR section 50.9(b). Until the 1-hour standard is revoked for a particular area, the area must continue to implement the requirements aimed at attaining that standard.

The Current Problem

The Act called on areas classified as moderate ozone nonattainment areas to submit SIPs that demonstrate attainment by 1996 (unless they receive an extension), and called on serious nonattainment areas to demonstrate attainment by November 1999 (unless they receive an extension). Section 181 and 182(b) and (c). For many of these areas, EPA has preliminary determined in the proposed SIP call that transport from upwind areas is contributing to their nonattainment problems. Such transport also appears to be interfering with their ability to demonstrate attainment by the statutory attainment dates.

The graduated control scheme in sections 181 and 182 of the Act expressed Congress's intent that areas be assigned varying attainment dates, depending upon the severity of the air quality problem they confront. Sections 181 and 182 provide for attainment ''as expeditiously as practicable,'' but establish later deadlines for attainment in more polluted areas, and additional control measures that the more polluted areas must accomplish over the longer time frame. Thus, many of the upwind areas have later attainment dates than the downwind areas which are affected by emissions from the upwind States. On the other hand, section 110(a)(2)(D)(i)(I) of the Act requires SIPs to prohibit ''consistent with the other provisions of [title I],'' emissions which will ''contribute significantly to nonattainment in . . . any other State.'' The EPA interprets section 110(a)(2)(A) to incorporate the same requirement in the case of intrastate transport. Sections 176A and 184 provide for regional ozone transport commissions that may recommend that EPA mandate additional regional control measures to allow

areas to reach timely attainment in accordance with section 110(a)(2)(D)(i)(I).

These provisions demonstrate Congressional intent that upwind areas be responsible for preventing interference with timely downwind attainment. They must be reconciled with express Congressional intent that more polluted areas be allotted additional time to attain. As EPA pointed out in its overwhelming transport policy, Congress does not explicitly address how these provisions are to be read together to resolve the circumstances where more polluted upwind areas interfere with timely attainment downwind, during the time provided for those upwind areas to reduce their own emissions.

In the 1994 overwhelming transport policy, EPA stated that it would harmonize these provisions to avoid arguably absurd or odd results and to give effect to as much of Congress' manifest intent as possible. The EPA struck a balance in the overwhelming transport policy by requiring that the upwind and downwind areas reduce their contribution to the nonattainment problem while avoiding penalizing the downwind areas for failure to do the impossible.

In the 1994 policy, EPA reasoned that Congress did not intend the section 110(a)(2)(D)(i)(I) obligation to supersede the practicable attainment deadlines and graduated control scheme in sections 181 and 182, especially since section 110(a)(2)(D)(i)(I) specifically applies only ''to the extent consistent with the provisions of (title I).'' The same rationale applies in the intrastate context under section 110(a)(2)(A).

Developments since the issuance of the overwhelming transport policy in 1994 have prompted EPA once again to interpret these provisions so that they can be reconciled in light of existing circumstances. Since the issuance of that policy, EPA and the States, through OTAG, have made significant progress in addressing interstate transport in the eastern United States, and have worked to analyze the flow of transport and to allocate among the States their respective responsibilities for control. During the period required for this effort, which took longer than was anticipated, the resolution of the regional transport issue was held in abeyance. The effort to address regional transport recently resulted in EPA's proposed NO_X SIP call, expected to be finalized in the next few months. For areas in the OTAG region affected by transport, the conclusion of the OTAG and SIP call processes in September 1998 will result in assignments of responsibility that will assist in the design of SIPs and the formation and implementation of attainment demonstrations.

Because EPA had not previously determined how much to require upwind States in the OTAG region to reduce transport, downwind areas were handicapped in their ability to determine the amounts of emissions reductions needed to bring about attainment. While operating in this environment of uncertainty, many of these downwind areas confronted near-term attainment dates. Moreover, as described in the NO_X SIP call proposal, the reductions from the proposed NO_X SIP call will not likely be achieved until at least 2002, well after the attainment dates for many of the downwind nonattainment areas that depend on those reductions to help reach attainment.

The Solution

The EPA believes that a fair reading of the Act would allow it to take these circumstances into account to harmonize the attainment demonstration and attainment date requirements for downwind areas affected by transport both with the graduated attainment date scheme and the schedule for achieving reductions in emissions from upwind areas. Thus, EPA will consider extending the attainment date for an area that:

(1) has been identified as a downwind area affected by transport from either an upwind area in the same State with a later attainment date or an upwind area in another State that significantly contributes to downwind nonattainment. (By ''affected by transport,'' EPA means an area whose air quality is affected by transport from an upwind area to a degree that affects the area's ability to attain);

(2) has submitted an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that shows that it will attain the 1-hour standard no later than the date that the reductions are expected from upwind areas under the final NO_X SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind reductions;

(3) has adopted all applicable local measures required under the area's current classification and any additional measures necessary to demonstrate attainment, assuming the reductions occur as required in the upwind areas. (To meet section 182(c)(2)(B), serious areas would only need to achieve progress requirements until their original attainment date of November 15, 1999);

(4) has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA contemplates that when it acts to approve such an area's attainment demonstration, it will, as necessary, extend that area's attainment date to a date appropriate for that area in light of the schedule for achieving the necessary upwind reductions. The area would no longer be subject to reclassification or ''bump-up'' for failure to attain by its original attainment date under section 181(b)(2).

Legal Rationale

The legal basis for EPA's interpretation of the attainment date requirements employs and updates the rationale invoked in the Agency's overwhelming transport policy. By filling a gap in the statutory framework, EPA's interpretation harmonizes the requirements of sections 181 and 182 with the Act's requirements (sections 110(a)(2)(D)(i)(I), 110(a)(2)(A), 176A and 184) on inter-area transport. It reconciles the principle that upwind areas are responsible for preventing interference with downwind attainment with the Congressional intent to provide longer attainment periods for areas with more intractable air pollution problems. It also takes into account the amount of time it will take to achieve emission reductions in upwind areas under the NO_X SIP call, which EPA expects to finalize in September 1998.

The EPA's resolution respects the intent of sections 181 and 182 to provide longer attainment dates for areas burdened with more onerous air pollution problems, while allowing reductions from upwind areas to benefit the downwind areas. Under EPA's interpretation, upwind areas will be required to reduce emissions to control transport, but should not find that the requirements imposed upon them amount to an acceleration of the time frames Congress envisioned for these areas in sections 181 and 182. Downwind areas will be provided additional time to accommodate the delayed control contributions from upwind areas, while at the same time being held accountable for all measures required to control local sources of pollution.

The EPA's interpretation of the Act allows it to extend attainment dates only for those areas which are prevented from achieving timely attainment due to a demonstrated transport problem from upwind areas, and which submit attainment demonstrations and adopt local measures to address the pollution that is within local control. The EPA believes that Congress, had it addressed this issue, would not have intended downwind areas to be penalized by being forced to compensate for transported pollution by adopting measures that are more costly and onerous and/or which will become superfluous once upwind areas reduce their contribution to the pollution problem.

This interpretation also recognizes that downwind areas in the OTAG region have been operating in a climate of uncertainty as to the allocation of responsibility for controlling transported pollution. Section 110(a)(2)(D) is not self-executing and, until the NO_X SIP call rulemaking, downwind areas in the OTAG region could not determine what boundary conditions they should assume in preparing attainment demonstrations and determining the sufficiency of local controls to bring about attainment. By allowing these areas to assume the boundary conditions reflecting reductions set forth in the NO_X SIP call and/or reductions from the requirements prescribed for upwind nonattainment areas under the Act, EPA will hold upwind areas responsible for reducing emissions of transported pollution, and downwind areas will be obligated to adopt and implement local controls that would bring about attainment but for the transported pollution.

The EPA's interpretation harmonizes the disparate provisions of the Act. It avoids accelerating the obligations of the upwind States so that downwind States can meet earlier attainment dates, which would subvert Congressional intent to allow upwind areas with more severe pollution longer attainment time frames to attain the ozone standards. In addition, EPA's interpretation of the Act takes into account the fact that, under the SIP call, upwind area reductions will not be achieved until after the attainment dates for moderate and serious ozone nonattainment areas. To refuse to interpret the Act to accomplish this would unduly penalize downwind areas by requiring them to compensate for the transported pollution that will be dealt with by controls adopted in response to the requirements of the NO_X SIP call or to achieve attainment in an upwind area. The EPA is thus interpreting the requirements to allow the Agency to grant an attainment date extension to areas that submit their attainment demonstrations and all adopted measures necessary locally to show attainment. This solution preserves the responsibility of these downwind areas to prepare attainment demonstrations and adopt measures, but does not penalize them for failing to achieve timely attainment by reclassifying them upwards, since such attainment was foreclosed by transport beyond their control.

Under this policy, once EPA has acted to approve the attainment demonstration and extend the area's attainment date, the area would no longer be subject to reclassification or ''bump-up'' for failure to attain by its original attainment date under section 181(b)(2).

The EPA requests comment on the interpretation in the guidance memorandum reprinted above.

ROBERT PERCIASEPE,
Assistant Administrator for Air and Radiation.

MEMORANDUM

Subject: Ozone Attainment Dates for Areas Affected by Overwhelming Transport.

From: Mary D. Nichols, Assistant Administrator for Air and Radiation (6101).

To: Director, Air, Pesticides and Toxics Management Division, Regions I and IV; Director, Air and Waste Management Division, Region II; Director, Air, Radiation and Toxics Division, Region III; Director, Air and Radiation Division, Region V; Director, Air, Pesticides and Toxics Division, Region VI; and Director, Air and Toxics Division, Regions VII, VIII, IX, and X.

The purpose of this memorandum is to provide guidance on attainment dates for ozone nonattainment areas affected by overwhelming transport. In particular, a number of States have expressed concern that it may be difficult or impossible for some areas to demonstrate attainment by the statutory attainment date because they are affected by overwhelming transport or pollutants and precursors from an upwind area with higher classifications (and later attainment dates). (Reference to upwind area in this memorandum and the attachment may imply that there is more than one area involved.) States containing such areas face difficulty in complying with two specific requirements:

1. Submitting an attainment demonstration by November 15, 1994 that includes measures for specific reductions in ozone precursors, as necessary, to attain by the statutory attainment date.

2. Actually demonstrating attainment through monitoring data by the statutory attainment date.

We believe that, due to conflicting provisions of the Act, it is reasonable to temporarily suspend the attainment date for these areas without bumping them up to a higher classification for the purpose of the two requirements listed above. A revised attainment date will be determined based on the analyses described in the attachment to this memorandum. The attachment also provides the legal rationale for this approach, along with specific criteria that States must meet. This policy does not relieve any State of the obligation to meet any other requirement of the Act. This memorandum describes current policy and does not constitute final action. Final action will be taken in the context of notice-and-comment rulemaking on the relevant SIP submittals.

This approach is premised on the requirement that the area in question clearly demonstrates through modeling that transport from an area with a later attainment date makes it practicably impossible to attain the standard by its own attainment date. This modeling is expected to be submitted on the same schedule as the required modeled attainment demonstration due November 15, 1994. The modeling must support the new attainment date which should be as expeditious as practicable, but no later than the attainment date in its SIP.

The EPA encourages upwind and downwind areas to consult with one another and the EPA Regional Offices to coordinate on this issue. Immediately after the downwind area determines that it plans to request an attainment date extension, it should notify the appropriate Regional Office. The Regional Office should then notify any affected upwind area of the intentions of the downwind area and its obligations under this policy. The EPA may use its authority under sections 110(a)(2)(D)(i)(I) and 110(k)(5) to issue a call for a SIP revision for the upwind area to ensure that it provides the necessary analyses and control measures needed to prevent significant contribution to the downwind area's nonattainment problem.

The attachment does not specifically address all of the modeling issues related to this demonstration. We recommend that Regions work with our Technical Support Division to determine what is appropriate for each area.

The EPA is also developing a general transport policy that will address situations where areas have difficulties reaching or maintaining attainment because of large-scale transport.

Please share this information with your States and appropriate local air pollution control agencies. Any general questions about this approach may be addressed to Kimber Scavo at (919) 541–3354, or Laurel Schultz at (919) 541–5511. Specific questions concerning modeling should be addressed to Ellen Baldridge at (919) 541–5684.

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Mr. BARTON of Texas. Mr. Speaker, this policy built upon the 1994 statutory interpretation memorandum that we have just put into the RECORD. And it indicated that the EPA considered its bump-up policy to be a fair reading of the act.

Now, what happened after this 1994 memorandum and the 1998 Federal Register, no Member of Congress complained about that. There was no group of citizens that came to the Congress and complained about the Clinton administration proposal. But what did happen was that in 2002, the Sierra Club filed three different lawsuits in three different regions, one of them here in the D.C. Circuit, one in the 5th Circuit, and one in the 7th Circuit, and they really did not argue against the policy of flexibility. They simply said the Clean Air Act did not give the EPA that authority. It was a very technical argument. And, to their credit, the Sierra Club's argument was upheld by the courts. The courts said, ''We have read the Clean Air Act and it is ambiguous. And since it is ambiguous, we have to say no to flexibility because it does not explicitly state there can be flexibility.'' That was in 2002. Those were lawsuits filed by the Sierra Club that went to court.

So we now fast forward to 2003. The gentleman from Louisiana (Mr. TAUZIN), the distinguished chairman of the full committee, and the gentleman from Michigan (Mr. UPTON), a member of the Committee on Energy and Commerce, all worked with me and other members of the committee on a bipartisan basis. We passed the most comprehensive energy legislation this Congress has seen back in April, April 11, I believe, on the floor of the House.

We, at that time, had not had time to study the effect of the court ruling. We had not had time to put together a hearing on this issue. But we did in July. In July we had a hearing in my subcommittee. We had a number of witnesses testify, and, with one or two exceptions, everybody who testified said this policy of flexibility is a good idea. We should allow it.

Democrats, my good friend from Houston, the gentleman from Texas (Mr. GREEN), my friend from Beaumont, the gentleman from Texas (Mr. LAMPSON), my friend from Crockett, the gentleman from Texas (Mr. TURNER), they all came and brought some of their constituents who testify or put testimony into the RECORD that said flexibility is good.

So as we went to conference with the other body, after consultation with the minority leadership of the Committee on Energy and Commerce, we put this in.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, this really is not a partisan issue. It is a matter of clean air that people breathe. I am certain there are people on that side of the aisle that will stand with the gentlemen, who I consider both my good friends. But there will be some probably who will not because they want to breathe some clean air. That is all this is about. It has nothing to do with partisanship. It has nothing to do with the Clinton administration. They have been given time. That is all this indicates. They have already had time to clean the air.

Mr. BARTON of Texas. Mr. Speaker, I thank my good friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), and I will continue to yield to her because I think we should have a dialogue, but what I am trying to point out is this is a commonsense policy that we have put in or are attempting to put into the energy conference with the other body. Because there is a lot of support for it and it gives the flexibility, if the local region needs it. Everything in it is based on a transport issue, and if the EPA says that it will help. That is all it does.

Mr. TAUZIN. Mr. Speaker, would the gentleman yield?

Mr. BARTON of Texas. Mr. Speaker, I will be happy to yield.

Mr. TAUZIN. Mr. Speaker, let me make the most important point here. Environmentalists for years have argued that we ought to have environmental laws that require the polluter to pay, that the polluter ought to be responsible for cleaning up his act and that the victims ought not be responsible for the actions of polluters. That is essentially what the EPA tried to do but was not allowed to do by the court and what we are trying to let the EPA do today.

The polluter in this case is the upwind polluter, the victim is the downwind community. What the Clinton administration and Carol Browner tried to do was to create flexibility in the EPA so that the downwind community did not have to pay to clean up the pollution in the upwind community. In other words, to make sure that the upwind community cleaned up its act so that it did not dump pollution on an innocent victim community who might end up having to pay for it.

So the idea was not to diminish the cleanliness of the air, it was not to exonerate anyone from their obligations

to clean their air. It was certainly not to allow the air to stay dirty. It was all about requiring the upwind polluter to get their act together, to clean up their act, and then to be able to count that together with the work done by the downwind community to reach clean air attainment. Now, that is fair.

Now, we have criticized the Clinton administration on this side many times for its action. In this case they were right. The EPA was right. The court, unfortunately, correctly, I think, said the EPA did not have the authority to do the right thing here.

What we are trying to do in the conference is make sure EPA has the authority to do the right thing and to make sure that the polluter does pay, that the innocent community downwind does not have to sacrifice because they are being dumped on by some upwind community.

Mr. Speaker, I urge this motion be defeated.

Mr. Speaker, let me make one last point. I respect the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) so much. I hope she knows that. We are in a conference right now with the Senate. We are trying to fix this. This would be a terrible instruction. This would be a terrible instruction to every community in America that suffers because someone upwind of them is polluting their community. It would be a terrible instruction.

What we want to do in the conference committee with the Senate, and I hope we finish that bill soon, is bring Members back a chance to pass an energy policy that does enforce the idea that the polluter should be responsible to clean up their act first. We are going to try to bring that back to Members.

This instruction hurts us, even though it is nonbinding, and I would urge that we reject it.

Mr. Speaker, I rise in strong opposition to the Johnson motion and urge my colleagues to vote against it.

I don't think any Member would disagree that the Clean Air Act has been extremely beneficial to America's environment over the last three decades. But as with any complex regulatory statute of its kind, there are times when the letter of the law either leads to unintended consequences or can give rise to conflicting interpretations.

This is precisely the situation that confronted the Clinton administration nearly a decade ago. In 1994, under the leadership of then-Administrator Carol Browner, the Environmental Protection Agency adopted a regulatory interpretation of the Air Act that allowed for some flexibility in applying ozone nonattainment dates. EPA issued additional guidance several years later, under which, in limited circumstances, the Agency would extend dates for downwind areas that suffered from pollution transport. The EPA then applied this guidance on a discretionary basis through approval of various state implementation plans.

Unfortunately,the courts threw out EPA's interpretations of the Air Act last year. So for the EPA's common-sense, flexible approach to nonattainment is to prevail across the country, Congress must codify it as part of the Clean Air Act.

As we debate this motion tonight, it is by no means clear when we will be able to get an energy conference report to the House floor. And that's largely because conferees are continuing to negotiate a number of key provisions, including whether we should include the ''bump up'' codification.

The motion before us is non-binding, Mr. Speaker. But I would not want for the House to be even symbolically constrained in its ability to negotiate with the other body, particularly when it comes to doing something like including a common-sense Clinton-era environmental regulation.

I want to make clear to my colleagues that the Clinton-era policy on bump up does not let downwind areas off the hook. In order to qualify: (1) An area must be the victim of pollution transported from another area that significantly contributes to nonattainment in the downwind area; (2) EPA must approve a plan that complies with all requirements of the Clean Air Act that are currently applicable to the area—as well as includes any additional measures needed to reach attainment by the date for the upwind area; and (3) the extension of any date must provide for attainment of Clean Air Act standards ''as expeditiously as practicable,'' but in no case later than the time in which upwind controls are in place.

The codification measure is fair and balanced. It prevents an unjust result—that a downwind area suffering from transported pollution is penalized for pollution that it does not generate. Many areas have made progress and are close to attaining—it makes no sense at this stage to impose additional penalties that will not advance attainment. In some cases, areas risk being classified as ''severe'' nonattainment even though they violated the 1 hour standard just a few times over 3 years and would otherwise be considered to be in ''marginal'' nonattainment.

At the end of the day, the codification of the Clinton bump up policy may actually be the most pro-environment thing we can do because it provides for the best possible course to reach attainment. The sooner we have it in place—regardless of how it gets to the President's desk—the better for our constituents living in these areas.

Again, Mr. Speaker, I urge opposition to the motion.

Mr. BARTON of Texas. Mr. Speaker, I yield to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, what I need to ask is that at what point will these polluters be responsible for cleaning up? If we stand here and change the goal post one time after another, the time never comes.

The Clinton administration, which you love to refer to on this, gave leeway, but it is time now to clean the air. People are dying from this dirty air.

Mr. BARTON of Texas. Mr. Speaker, if I may reclaim my time to respond briefly. This is not about changing the goal post at all. The same standard is in effect. We are not changing the standard. We are simply saying if they are trying to comply, and one of the reasons they are not in technical compliance is because of an ozone transport issue outside of their control area, they have the flexibility to ask for an extension. And the EPA has the right to grant that extension. But if the EPA does, it cannot grant an extension that is any longer than in the noncompliant area that is causing the transport issue.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, I want to piggyback on to the comments of the gentleman from Louisiana (Mr. TAUZIN). I can remember when Carol Browner, the then administrator of EPA, came and testified before the subcommittee. I was one that supported the Clean Air Act as well as the Clean Water Act. I can remember when we debated the Clean Air Act, the delegation at that time included important language, and I am not a lawyer but we thought it was sufficient, that gave the EPA the administrative authority when downwind communities were impacted by what came from the polluter itself.

My district, southwestern Michigan, I have air that comes from Gary, Indiana, from Chicago, Illinois, and Milwaukee, Wisconsin, across Lake Michigan. Some of my counties have reported that they could actually remove all human activity in some of my counties, and we would still not be in compliance with the new 8-hour standard because of what is coming across the lake.

When Carol Browner came and heard that at the subcommittee, she helped us with this language and the administrative relief that they put into effect for other areas around the country. What the gentleman from Texas (Mr. BARTON) is doing, and the gentleman from Louisiana (Mr. TAUZIN) as part of the conference, is to revert back to what the Clinton administration said then: We still want to help the polluters clean up their air, but we also recognize that the victims. For me, my area of southwest Michigan, can do absolutely nothing about it. In fact, they can have some relief if these new penalties are assessed, collecting millions of dollars which, at the end of the day, will not provide one iota of cleaner air. Because, again, we could remove everything, every road, every lawn mower, every small business, every large business, at the end of the day there is nothing we can do without some type of relief.

And that is why it is important, I think, that we defeat the motion to instruct of the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) because we are left with no choice. And that is why the Clinton administration agreed with us when they came and testified before our subcommittee.

Mr. BARTON of Texas. Mr. Speaker, I will reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California (Mrs. CAPPS.)

Mrs. CAPPS. Mr. Speaker, I thank my colleague and fellow nurse for

yielding and also for her motion to instruct conferees on the Energy Policy Act.

Mr. Speaker, I rise in strong support of this motion. It is a real shame that at the 11th hour the Republican conferees have added a new provision to this energy bill which weakens the Clean Air Act and harms public health. This new provision will allow polluted cities to avoid having to clean up their dirty air.

Right now cities can get extended deadlines to meet their requirements under the Clean Air Act, but in exchange for the time extension, within the Clean Air Act, cities with dirty air have to meet specific goals and specific timetables. This is EPA's bump-up policy that is supposed to ensure that dirty air is cleaned up. And the policy is designed to work with cities, to make sure that this can happen in a timely fashion. But under the new energy provisions being proposed, cities that have not met their clean air requirements will just be given a pass. That means that cities with dirty air will not have to institute stronger pollution controls to clean up their act for a much longer time.

People living in these cities and people living downwind will suffer longer from dirty air and its damaging health effects. We cannot afford this, not in our health care and not in our economy.

As a public health nurse, I am so concerned with this very provision and its impact on the state of our air quality. The argument is that it is hard for these polluted areas to clean up due to dirty air blown in from elsewhere. That case has been made. But in many of these areas it is been demonstrated that these areas that would be exempted, transported pollution is only a small part of the problem.

Now, what about continued local clean-up efforts which are demonstrated to be necessary? And, in addition, this new provision provides a special break for certain areas of Texas and Louisiana. That is blatantly unfair to all the cities and their businesses that have worked so hard to meet pollution control deadlines, to provide healthy air for their citizens.

This added change also harms all the areas downwind of those that get the extension as more air pollution will continue to blow downwind for so many years longer.

The truth is this last minute change was never approved by either the House or the Senate. In fact, this provision, and I was at the hearing that we held in July, but it has never been debated upon. Alternatives have never been able to be proposed in a committee setting.

This change weakens the Clean Air Act and overturns three appellate court rulings upholding current law. This is an end run around the courts which have repeatedly held that the EPA does not have the authority to extend air quality deadlines without following the Clean Air Act requirements.

Mr. Speaker, EPA reports that 133 million Americans in our country live where air is unhealthy to breathe because of ozone pollution. The provisions in this bill are denying these Americans their right to breathe clean air.

The provision in this bill is going to be denying these Americans their right to breathe clean air. The provision in the energy bill is a bad idea. The end result will be a delay in cleanup, continued unhealthy air, and more asthma attacks, respiratory illnesses and other health problems. It is going to affect health and productivity of American companies and American workers. Our children and our families have waited too long for clean air.

So I urge my colleagues to support this motion and oppose any energy bill that contains this shameful provision.

Mr. BARTON of Texas. Mr. Speaker, could I inquire of the time on each side right now?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Texas (Mr. BARTON) has 16 minutes remaining. The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) has 20½ minutes.

Mr. BARTON of Texas. Mr. Speaker, I would like to yield 2½ minutes to the gentleman from Houston, Texas, (Mr. GREEN), a member of the committee and the subcommittee.

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman from Texas (Mr. BARTON), my colleague and the chairman of our subcommittee on the Committee on Energy and Commerce.

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It is with reluctance I rise in opposition to the motion to instruct offered by my colleague and longtime and respected friend, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON). We have served together now for 30 years, and every once in a while we do find ourselves on opposite sides. Since I represent Houston, and I will deny under oath if necessary that we caused Dallas' pollution problems, but be that as it may, I understand the gentlewoman's passion to improve the air quality for her constituents. That is impressive and she is doing great work to raise the public profile of a difficult issue. But I find myself in a difficult situation myself today. A bipartisan group of my colleagues from north Texas and east Texas are blaming my area of Houston for increasing smog levels in their area.

First, let me say that the Houston area is doing everything in our power to reach compliance with the Clean Air Act. Our deadline is 2007. We have a tremendous amount of manufacturing facilities and jobs in our area. And reengineering these facilities without causing a regional recession is a challenge, but we are making progress.

The EPA has given areas with imported air emissions extra time to meet the deadlines, but the courts have ruled that they do not have that authority. A provision is in the draft conference report, which is what the gentleman from Texas (Mr. BARTON) talks about that allows the EPA the authority to extend the deadline for two years with areas with imported emissions.

Now, in the Houston area we do have some problem in imported emissions from if they have fires in Mexico, we receive it. But Houston would not come under this. But if the EPA decides that Houston's air quality significantly impacts Beaumont, for example, to the east and Dallas' air quality, then maybe they should also have the same deadline in Houston in 2007 instead of 2005. That is basically all this provision in the conference committee would do. We are not reopening the Clean Air Act. It is just allowing Dallas or Beaumont to ask for that extension.

I understand there are similar situations in areas all over the country. And I also understand the concern of my colleague, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), that the deadline be moved back, because often we relax if it is not pressing.

Mr. Speaker, I strongly believe Dallas and Beaumont should not use an extension as an excuse to avoid local control and delay cleaner air for their citizens. But I do believe the EPA should be able to grant them an extension and give them as much time as my own area with the Clean Air Act.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentlewoman for yielding me time and for her leadership on this motion to instruct.

Mr. Speaker, when it comes to air quality, Maine is America's tailpipe. We are downwind of industrialized areas to our south and west. Southern Maine endures unhealthy air days during most summers.

According to the EPA's analysis, 98 percent of the emissions leading to unhealthy air days in Maine originate outside of our borders. And so as a result of our experience, I sympathize with those areas which also have pollution coming in, blowing into their areas from other parts of the country; but I do not believe this provision is the right answer.

I rise today to oppose addressing the transport problem by rewriting the Clean Air Act within the energy bill conference. The Clean Air Act should not, in my opinion, be amended in secret meetings of the energy bill conference committee. If we look back at the secret meetings of the Cheney task force, they were linked to the administration's new source review rule changes, the clearest weakening of the Clean Air Act ever approved, and we do not need to weaken the Clean Air Act and threaten the health of our people.

Portland, Maine, could not have attained healthy air by its 1996 deadline if the whole city had packed its bags and moved to Quebec. We have suffered

from such a severe transport problem, more severe in percentage terms than Dallas, Texas, that local efforts could not possibly have brought the city into attainment.

Like my colleagues who have added this provision to the energy bill, Maine's former Governor complained that the Clean Air Act was flawed back in 1996, some State policymakers even advocating changing the act to alleviate our burden. The same arguments are being made here today, but I do not buy it. No matter how many times flexibility is mentioned or the Clinton administration proposals, the real risk here is that we will weaken the Clean Air Act in a fundamental way.

The transport problem is real, but the Clean Air Act gives States the tools to go after upwind sources that risk the health of our citizens. In the mid-1990s, for example, Maine's policymakers used the Clean Air Act by filing a section 126 petition against upwind sources, and other northeastern States did the same. In short, we pushed for a more comprehensive solution to the transport problem; and as a direct result of the section 126 petitions, EPA initiated the NOX SIP Call, which when this administration finally implemented it in 2004, will help us to attain healthy air.

The Committee on Energy and Commerce can take appropriate action to address the needs of certain areas, such as Atlanta, without endangering public health. If this provision were reasonable and environmentally benign, the authors, I believe, would show us the text, mark it up in regular order, and place it on the suspension calendar.

As I say, I am from an area that suffers from transport; but I do not believe this provision, whatever its exact language, will help the people of my State. We need to stop this effort to help polluters at the expense of children with asthma and grandparents with emphysema. So I want to encourage Members to support the motion to instruct.

But I would like to yield the balance of my time to the gentleman from Texas (Mr. BARTON) if he can answer a simple question.

Would the gentleman agree to provide the text of this provision? We are in an odd position here, debating a provision that has been reported, but that we do not have a text of. Would the gentleman agree to provide the provision?

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Texas.

Mr. BARTON of Texas. If we had a finalized version of the text, I would certainly share it with the gentleman. We do not yet have a finalized version. I can tell the gentleman the substance of it and would be happy to do that; but I myself do not have a hard copy of it because we have not finalized the negotiations with the other body.

Mr. ALLEN. Mr. Speaker, I would be happy to settle for the substance.

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

Mr. Speaker, I would like to try to answer my good friend's question. Before I do that, I want to put into the RECORD the witness list for the subcommittee hearing on July 22, 2003, that I believe the gentleman from Maine (Mr. ALLEN) attended, if I am not mistaken. My recollection is that he was there.

We had 10 witnesses headed by the Honorable Jeffrey Holmstead, who is the assistant administrator for the air and radiation office of the Environmental Protection Agency.

We had nine witnesses that were State and local witnesses. We had a fair panel. Of the nine State and local witnesses, my recollection is that five or six supported this proposal and that three did not. There may be one of the six that I count as a supporter that was kind of 50/50 on it.

The material referred to is as follows:

PANEL I

The Honorable Jeffrey Holmstead, Assistant Administrator for Air and Radiation, Environmental Protection Agency, 6101A USEPA Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

PANEL II

The Honorable Bobby Simpson, Mayor-President, Baton Rouge/Parish of East Baton Rouge, 222 St. Louis Street, 3rd Floor, Baton Rouge, LA 7802.

The Honorable Carl K. Thibodeaux, County Judge, Orange County Courthouse, 123 South 6th Street, Orange, TX 77630.

The Honorable Carl R. Griffith Jr., County Judge, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, TX 77704.

The Honorable R.B. ''Ralph'' Marquez, Commissioner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Mail Code 100, Austin, TX 78711.

Dr. Ramon Alvarez, Scientist, Environmental Defense, 44 East Avenue, Suite 304, Austin, TX 78701.

Mr. David Farren, Attorney, Southern Environmental Law Center, 200 West Franklin Street, Suite 330, Chapel Hill, NC 27516.

Mr. Ronald Methier, Chief, Georgia Department of Natural Resources, Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, GA 30354.

Mr. David Baron, Staff Attorney, Earthjustice, 1625 Massachusetts Avenue, NW., Washington, DC 20036.

Mr. Samuel Wolfe, Assistant Commissioner for Environmental, Regulation, New Jersey Department of Environmental Protection, P.O. Box 423, Trenton, NJ 08625–0423.

Mr. BARTON of Texas. What the pending proposal with the other body would do is simply and very narrowly in the States that are part of the agreement with the EPA on NO_x, and there are 17 States, most of them east of the Mississippi, if those States have a State implementation plan approved or in the process of being approved and they can show that one of the reasons they may not be in compliance is because of ozone transport, they can ask for an extension. The EPA has the discretion to grant the extension; but if the EPA does grant the extension, it can only grant it forward to the compliant date where the ozone transport is originating from, if that makes sense. It is purely discretionary on asking for the extension. It is purely discretionary on granting the extension.

The extension can only be granted for ozone transport. It is an attempt to codify the Clinton administration's proposal that was put in the Federal Register in 1998.

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

Mr. BARTON of Texas. I yield to the gentleman from Maine.

Mr. ALLEN. My understanding of the current law is that if extensions are granted for any purpose, there is a requirement that stiffer pollution control requirements be implemented in the area. Does the gentleman's provision do away with that requirement for stiffer pollution requirements?

Mr. BARTON of Texas. Let me call a time out if that is possible.

It does not require additional implementation control measures, but it would require that they could file an addendum to the SIP that would do that.

Mr. ALLEN. I thank the gentleman.

Mr. BARTON of Texas. Reclaiming my time, Mr. Speaker, I want to comment on what might happen if a region is not granted an extension.

The courts have ruled in these court cases that if the EPA is not allowed to give some discretion in terms of meeting the timeline and if that region does not look like it is going to be in compliance, it is automatically bumped up to the next highest attainment, nonattainment category.

There are five nonattainment categories in the Clean Air Act. The least nonattainment is called marginal. Their design parameter is between 121 parts per billion for ozone and 138 parts per billion. You go to moderate which is 138 parts per billion to 160. You go to serious .160 to .180. And you go to severe which is 180 parts per billion to 190 parts per billion, and anything above that is extreme. And if you do not have the flexibility to give an extension, and if the region cannot show that it will be in compliance by that specific deadline, EPA has to bump them up in the next higher nonattainment area.

And we might ask ourselves, well, so what? So we are bumped up from serious to severe, from moderate to serious. No big deal. Well, it actually is a big deal because as we go into the more severe nonattainment criteria, the things that have to be done, there is no discretion on that. For example, if you apply for a permit to perhaps build a new factory to provide new jobs, you have to show that there is a two to one offset.

In other words, you have to shut down two tons of pollution for each new ton that the new factory would provide. You almost bring to a halt any highway funding in the area. And in the DFW area that the gentlewoman and I share representation with, those

highway funds on an annual basis or order of magnitude are around $600 million just in Dallas and Tarrant County.

Any new source that is over 25 tons per year has to get a special permit, and 25 tons per year is not a large amount of emissions. And it is possible that the Federal Government can come in and just take over the entire State implementation.

Now, there are some that may think that those are all well and good; but most of this body I would postulate would say, would it not be better to give the region some flexibility to ask for an extension and would it not be better to give the EPA the authority if they felt it was in order to give the extension. That is the question. And again, we are not changing the standards; we are not changing the 125 part per billion standard for ozone. We are not maintaining that at all. We are not changing the criteria for being classified from marginal to extreme. We are not changing that at all. We are not changing the general attainment dates that go back in the statute to 1990. We are simply saying flexibility and discretion are a good thing, not a bad thing.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have no further requests for time, and I believe I have the right to close.

The SPEAKER pro tempore (Mr. KLINE). The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) has the right to close.

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Mr. BARTON of Texas. Mr. Speaker, if she is about to close, I have some more comments, and she does have the right to close. Would she allow me to speak and then she could close the debate?

The SPEAKER pro tempore (Mr. KLINE). The gentleman from Texas (Mr. BARTON) is recognized.

Mr. BARTON of Texas. Mr. Speaker, how much time do I have left?

The SPEAKER pro tempore. The gentleman from Texas has 8½ minutes remaining.

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

I do not want to belabor the debate. Let me just in summary, before the gentlewoman closes, point out that while the gentlewoman is from the Dallas-Fort Worth area, and I am also, this is not a local Dallas-Fort Worth issue. These court cases were brought in three different circuit courts, one of which is the District of Columbia here in Washington, D.C., the 5th circuit and the 7th circuit. So this is a national issue.

Regions that are affected immediately by these court cases do include the Beaumont-Port Arthur area, Dallas-Fort Worth area. So there are two areas in Texas but we also have St. Louis, Missouri; Atlanta, Georgia; Washington, D.C.; greater Connecticut; and Baton Rouge, Louisiana. Those are the cases that we know of, the State implementation plans that were pending that have been stayed by these are affected by these court rulings. So this is not just a Texas issue or just a Dallas-Fort Worth issue. This is a national issue.

The second thing that I would point out is that we are not affecting the standard, the national standard of 120 parts per billion, but let me say on that, when the gentlewoman from Dallas indicates that she has constituents that are affected by ozone and, as she called it, by the dirty area, so do I.

I am slightly asthmatic. My son is, I would say, moderately to severely asthmatic. I have done a lot on the floor of this body to try to help asthmatics. I am the cofounder, along with Senator KENNEDY in the other body and the gentlewoman from New York (Mrs. LOWEY), of Asthma Awareness Day. Back before it was politically correct to be talking about asthma, in some earlier Congresses, I was one of the handful of sponsors of the Asthma Act back in the 105th Congress. I was one of only three sponsors of H.R. 4654. In the 106th Congress, I was one of only four sponsors of H.R. 1965. I am still a leader of the Asthma Awareness Day that we have had every year in the Congress for the last 8 years I think.

So we are not trying to say it is not a problem, but there are some people in our society, when they set these standards for ozone, that we could take ozone to background levels, five parts per billion, six parts per billion like we have in Atlanta, Georgia, and there would still be some asthmatics that were negatively affected.

The other pollutants that are regulated under the Clean Air Act, in every case there was some sort of a bright line test, and again, it is not the different categories. It is yes or no. For lead, yes or no. For SO2, yes or no. For NOx, yes or no. But for ozone, it is not a yes or no, and there is wide scientific debate about where to set the standard.

Having said that, we could set the standard at a level that only the Supreme Being of the universe could meet, and we would still have some people that would be negatively affected. So when we get into the debate about parts per billion and number of days they are out of compliance, 3 days in a 3-year period is okay, but 4 days in a 3-year period is not if they exceed it by one part per billion, then I think discretion is advisable, and I think flexibility is advisable. And I think the pending House position with the other body on the energy conference report is a very defensible, not only defensible, it is a very useful provision, and I would hope, if the gentlewoman insists on a record vote, that we would vote against her motion to instruct, not because it is not well-intentioned, not because she is not well-meaning, but because it actually would, in many ways, I think, hurt the effort to clean the air because of the arbitrariness of the way the courts have ruled under the current Clean Air Act.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself the balance of my time.

There are lots of areas in the country that have already implemented the controls that the gentleman from Texas (Mr. BARTON) speaks about and had worse transport problems and are not seeking extensions. It is a matter of whether these companies want to do it and have the encouragement to come into compliance rather than to help to stay out of compliance.

I would also like to note that the gentleman from Michigan (Mr. UPTON) was here speaking, and I do not know about his application for an extension, but all the areas in Michigan have attained the 1-hour standard. So I do not know why the EPA policy would even apply to Michigan.

The only transport occurring in my area is from the gentleman from Texas' (Mr. BARTON) district to mine. It is not from Houston to Dallas, and in today's article that was well-researched in the Dallas Morning News, it states that the region missed Federal deadlines in 1996 and 1999 to clean up its air. The last missed date made the region, now classified as a serious ozone violator, eligible to move to the next worse category, as severe. That would impose the new deadline set by a Federal law for 2005 and new orders for pollution cuts.

Mr. BARTON of Texas. Mr. Speaker, will the gentlewoman yield?

Ms. EDDIE BERNICE JOHNSON of Texas. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I know she has the right to close, but she made a characterization about my district, and at the appropriate time, I would like to respond to that. I do not mean to interrupt her, but if she would yield to me some time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I will put into the RECORD data by the Texas Environmental Air Quality Commission that shows the monitoring in Ellis County has not exceeded one time the standard, not one time. Now, there are monitors in Arlington, Texas, that have, and that is also in my district, but if a reference is to Ellis County, the data shows that there have not been any exceedences. I do not know which part of my district she was referring to, but if it is Ellis County, we are okay in Ellis County. If it is part of Arlington that I represent, then we have had an exceedence.

The data is for ozone exceedences in Dallas/Fort Worth area in 2002 and 2003 (through 10/28/2003).

Measured values for Midlothian Tower C94/C158/C160 show 91 ppb on 15 May 2002, 86 ppb on 22 June 2002, 90 ppb on 23 June

2002, 85 ppb on 24 June 2002, 87 ppb on 8 July 2002, 88 ppb on 7 August 2002, 87 ppb on 8 August 2002, 99 ppb on 9 August 2002, 94 ppb on 11 September 2002, 86 ppb on 13 September 2002, 89 ppb on 28 May 2003, 86 ppb on 9 June 2003, and 89 ppb on 6 August 2003.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. EDDIE BERNICE JOHNSON of Texas. Wherever we are dirtying this air, it is dangerous to the lungs, and it is dangerous to the health.

According to the Environmental Protection Agency, 127 million Americans breathe air that violates Federal standards for smog and soot pollutions. EPA's own consultants found that each year almost 370 residents of the Dallas-Fort Worth area died just because of pollution from the oldest and dirtiest unregulated power plants in the country, and 10,500 asthma attacks are triggered.

During the past several years, EPA gave several metropolitan areas a free pass, extending air deadlines for dirty areas without bumping them up to the higher pollution categories that would require more protective standards. Four separate Federal appellate courts all ruled that EPA's extension policy violated the language and purpose of the Clean Air Act. Appropriately, that led the agency to abandon the policy.

With so many Americans breathing in dirty air, it should be obvious that air quality standards are already not being enforced enough. Why would we make them weaker? But rather than accepting the judgment of the EPA and the courts, the gentleman from Texas (Mr. BARTON) and his allies are seeking to amend the Clean Air Act. His changes would turn the clock back, extend the air time frames once again, without raising the bar for air quality. What this means in real terms for real people is simple: Dirtier air for longer.

In their desire to pass any comprehensive energy bill, some of my colleagues may be willing to overlook the massive damage this bill would do to our existing clean air policies. Including the Barton dirty air rider, which I do not even know what it says because he will not let us see it, but it means ignoring overwhelming scientific evidence on the serious health effects of ozone pollution. It will mean that pollution in these areas will go unchecked for longer and longer in the future.

Asthma attacks, respiratory problems and pulmonary disease will go up, while the amount of time children can spend playing outside will go down. Developing lungs process 50 percent more air, pound for pound, than those of adults.

Children suffer most from the current air quality shortfalls. Letting the situation worsen for years and even decades does nothing for a child unable to go outside today.

It is true that we must secure our energy future, and this is why a comprehensive energy bill is attempting to move forward, but we must not roll back critical safeguards. We must not pass a bill with great shortfalls simply because we need to pass a bill. We must instead work toward a fair bill that protects us all and does not endanger ourselves and our children.

This is not an attack upon my colleague and nor is it Democrats versus Republicans. We see Democrats sitting over here that are for this, too. He is for dirty air, but while we agree that emissions from vehicles are significant contributors to ozone formation in north Texas, we also want to highlight the fact that the volume of the emissions coming from sources in Ellis County equals that of 2.5 million vehicles annually. These emission figures do not account for the two power plants that have sited their plants in Ellis County. Many of them have moved from Dallas County to Ellis County to avoid compliance with better emission controls because they knew they would find the gentleman from Texas (Mr. BARTON) there to protect them, which is not a part of this quote, with better pollution controls nor do these emission figures account for the three permit amendments that are pending at the Texas Commission of Environmental Quality to increase emissions.

Are we going to forget about the people and the health of the people altogether and not care what happens to the people's lungs, including those of us who are here, or are we going to say to the companies, get serious, comply with the standards?

Mr. Speaker, I also have testimony from that hearing from four witnesses in July, as well as other material that I have referred to, to place in the RECORD at this point.

[From the Dallas Morning News, Oct. 28, 2003]

HOUSTON LINK TO D–FW SMOG DOUBTED

(By Randy Lee Loftis)

Internal reviews at the Environmental Protection Agency found little or no evidence to support Texas' contention that Houston's smog was harming Dallas-Fort Worth's attainment of clean-air goals, documents and interviews show.

Nonetheless, EPA officials publicly used much different language—asserting that Houston's smog ''jeopardized'' Dallas' attainment—and proposed giving urban North Texas two more years to clean up its smog than federal law allowed. The move postponed a tougher smog crackdown.

Current and former EPA officials this week defended their decisions and said there was no attempt to alter scientific findings to justify their January 2001 proposal to extend North Texas' smog deadline.

''I don't recollect anybody trying to hide a shell game on Dallas-Forth Worth,'' said Tom Diggs, the EPA's chief air planner for Texas. He said the agency's actions were in line with national policy.

But a scientist at a major environmental group called the discrepancy between the EPA's internal reviews and its public statements ''damning'' evidence of collusion to avoid statutory deadlines, at a cost to public health.

''It is shameful that the EPA was more worried about appearing inflexible than upholding the law,'' said Dr. Ramon Alvarez of Environmental Defense's Texas office.

TIME TO CLEAN UP

North Urban Texas is under pressure to resolve one of the nation's most stubborn smog problems. Emissions from vehicles and industries combine to create hazy skies and health risks, especially for children, the elderly and people with lung ailments.

The region missed federal deadlines in 1996 and 1999 to clean up its air. The last missed date made the region, now classified as a serious ozone violator, eligible to move to the next-worse category, severe. That would have imposed a new deadline, set by federal law for 2005, and new orders for pollution cuts.

When the EPA proposed postponing the deadline to 2007, it also put off the area's designation as severe. That decision two years ago has surged back into the headlines in recent days as part of a bitter fight in Congress.

The agency gave such extensions to several metropolitan areas, in each case saying scientific evidence supported them. Federal courts have struck down the extensions as illegal.

An effort by U.S. Rep. Joe Barton, R-Enis, to legalize them has helped to stall a major energy bill.

Some Senate Republican leaders and Democrats in both chambers oppose Mr. Barton's attempt. ''We did some research on the issue,'' Mr. Barton said Tuesday in Washington. ''We had a hearing in the committee. And all but some of the more radical environmentalists said we ought to give the EPA this discretion.''

The EPA's policy on ''transport'' of smog, or ozone, between cities was supposedly meant to keep a downwind area from paying a price for an upwind area's pollution.

Starting with the Clinton administration, the EPA offered to extend deadlines for any urban area that could demonstrate that another area's smog was significantly affecting its clean-air attainment.

Atlanta, Washington, D.C., St. Louis and Beaumont-Port Arthur were among the takers.

So was Dallas-Fort Worth. The Texas Natural Resource Conservation Commission, now the Texas Commission on Environmental Quality, submitted technical findings in September 1999 that it said showed Houston's effect on Dallas-Fort Worth.

The EPA's Dallas office formally accepted the state's evidence Jan. 4, 2001. The EPA cited the evidence in proposing to postpone Dallas-Fort Worth's deadline to 2007 from 2005, the date set by law.

''We are proposing that this transported pollution affects DFW's ability to attain by the current attainment date,'' the EPA announced in the Federal Register.

''Thus, the DFW and HGA [Houston-Galveston] areas are inextricably linked,'' the agency wrote. ''Without controls in the HGA, the DFW area's ability to attain is jeopardized.''

Environmentalists questioned that assertion at the time, saying the EPA was using transport as an excuse to give states more time for cleanups. The federal court rulings kept the EPA from finalizing the North Texas extension. Future smog plans are being negotiated.

Mr. Diggs, the EPA's chief regional planner, said Tuesday that the state's submittal met the EPA national policy for such claims. He acknowledged, however, that the EPA set the scientific hurdle so low that it was easy for states to get the deadlines extended.

''Whether [making the extensions easy] was a good decision or not, it was out there for every state,'' he said.

''SIGNIFICANT'' IMPACT

Elsewhere in that Federal Register document, Mr. Diggs noted, the EPA said Houston's impact on North Texas was small and limited to some days, but met the agency's definition of ''significant.'' However, EPA technical reviews in 1999 had found that Texas' scientific case was ''weak'' and that Houston actually had ''minimal, if any'' effect on Dallas-Fort Worth's attainment, documents and interviews show.

One former EPA staff expert who reviewed the evidence concluded then: ''Thus, there is not much of an impact of HG [Houston-Galveston] on the DFW [area] that would interfere with DFW's ability to achieve attainment.''

Dick Karp said in an interview that he was given no new information later that would change that conclusion.

TOO RIGOROUS REVIEW

The problem, he said, was that supervisors told him his review was ''more rigorous'' than the agency wanted.

''There was a lot of passing back and forth,'' Mr. Karp said. ''I know in the beginning I was probably a bit more of a stickler for them being able to prove it—show me that there's a real impact from Houston.

''And I kind of got taken aside and told, 'Well, that's not exactly what this policy is about.'''

EPA executives wanted to grant the extensions, but making the states prove their claims would go against that goal, Mr. Karp said.

So he was told that the burden was on the EPA to disprove the states' claims, not on the states to prove them, he said.

''I wasn't real comfortable with that, but I don't get to make the rules,'' said Mr. Karp, who has left the EPA.

Former EPA regional administrator Gregg Cooke, who made the decision to delay Dallas-Fort Worth's deadline, said he was never told that there were questions about the state's evidence.

''The staff document that was sent to me [said that] we think we should give the extension, ''he said. ''And I approved that based upon whatever was given to me at the time. . . . I thought the analysis from staff was that the technical argument was well-taken.''

Asked whether knowing of lower-level staff concerns about the state's case might have changed his decision, Mr. Cooke said, ''It might have been germane.''

Mr. Cooke, who has since left the EPA, is an attorney representing the governments of Dallas-Fort Worth-area counties on clean-air planning.

Mr. Diggs said the EPA's final technical documents, published along with the proposal to extend North Texas' deadline, laid out the agency's policy requirements and showed that Texas had met them. The documents did not claim, he said, that Houston's smog was keeping Dallas-Fort Worth out of clean-air attainment. That was clear in an Oct. 22, 1999, letter to Texas officials, he said.

''We would never say that Houston is the reason for Dallas-Fort Worth's nonattainment,'' Mr. Diggs said, ''Houston coming into attainment does not solve Dallas-Fort Worth.''

Even the Texas officials who assembled the state's evidence knew that they couldn't prove that Houston was a big factor for North Texas, said Brian Foster, an air planner with the Texas Commission on Environmental Quality.

'MINIMAL IMPACT'

''We did show that there was a minimal impact. We admit that it wasn't the greatest amount there was,'' Mr. Foster said.

But the state agency, hoping that new federal and state measures would help ease Texas smog, readily took advantage of the delays that the transport policy offered, he said.

''We felt that we needed more time,'' Mr. Foster said. The key to getting it was EPA's low standard for showing ''significant'' impacts. ''Once again, it goes back to the EPA policy,'' Mr. Foster said.

Dr. Alvarez, the Environmental Defense scientist, said the EPA oversold Houston's impact to the public to justify the extension. Added together, he said, such seemingly small steps backward help explain why decades of efforts have failed to clean up North Texas' air.

''It seems like sophomoric high school decision-making,'' he said. ''Unfortunately, the stakes are much higher: It is the asthmatic children in the metroplex that pay the price of yet another delay in the fight for clean air.''

U.S. SENATE,
Washington, DC, October 27, 2003.

Hon. PETE DOMENICI,
Chairman, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Clean Air Act has reduced pollution from many different sources, but there is still much more work to be done. Nearly 150 million Americans are living in areas that currently do not meet the nation's air quality standards. As you know, in the Senate, the Environment and Public Works Committee has the responsibility for reviewing and revising that Act in a manner that will help us achieve the unanimous goal of improved air quality for all our citizens.

We understand that members of the energy bill Conference Committee from the House of Representatives have proposed an amendment to Title I of the Clean Air Act. That amendment, to codify a policy with respect to ozone nonattainment designations, is not relevant to energy issues, has been overturned by the courts, and has not been the subject of consultation with or legislative action by the Environment and Public Works Committee or the Senate. Therefore, we believe it is inappropriate to include such provisions as part of the energy bill.

The effect of the proposed amendment would be to disregard the compelling scientific evidence on the serious health effects of ozone pollution and delay necessary emissions reductions. This will increase pollution in those areas and in downwind areas, increasing asthma attacks, the number of hospital admissions for respiratory and pulmonary problems, and reducing the number of days that children can play outside safely. This would be contrary to the system established by the Clean Air Act and unsound policy.

In addition, the precedent of bypassing the Committee on Environment and Public Works would be unfortunate. Disregard for the views of the committee of jurisdiction would be compounded by incorporating a new matter such as the proposed amendment, which is not in either Houses' version of H.R. 6, into the conference report. Inclusion of the amendment in the conference report on H.R. 6 will delay Senate consideration and any final action on H.R. 6.

Finally, we clearly understand that this proposal is not emanating from the Senate conferees and urge you to oppose it. Energy Committee majority staff has indicated publicly that you do not think that the energy bill is the appropriate vehicle for amending the Clean Air Act.

We hope that you will maintain that position with respect to this proposed amendment and any such proposals outside the scope of what has already passed the Senate when the conferees meet again.

Sincerely,

Jim Jeffords, Jack Reed, Patrick Leahy, Barbara Boxer, Joe Biden, Ron Wyden, Dianne Feinstein, John F. Kerry, Hillary Rodham Clinton.

TESTIMONY BY SAMUEL A. WOLFE, ASSISTANT COMMISSIONER FOR ENVIRONMENTAL REGULATION, NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, ON USEPA'S BUMP-UP POLICY UNDER TITLE I OF THE CLEAN AIR ACT BEFORE THE HOUSE ENERGY AND COMMERCE COMMITTEE SUBCOMMITTEE ON ENERGY AND AIR QUALITY, JULY 22, 2003

Good morning, Mr. Chairman and members of the Subcommittee. My name is Samuel Wolfe. I am Assistant Commissioner for Environmental Regulation for the New Jersey Department of Environmental Protection. Thank you for the opportunity to testify before you today regarding the Environmental Protection Agency's bump-up policy under Title I of the Clean Air Act.

Even though the EPA created the bump-up policy in an effort to help areas affected by ozone transport, New Jersey cannot support revising the Clean Air Act to accommodate the EPA policy. The policy does nothing to address transport. It simply rewards an area's failure to attain air quality standards by extending deadlines beyond the two years that the law allowed without requiring any additional action to address air pollution.

The 1990 Clear Air Act Amendments created five classes of ozone nonattainment areas to reflect the severity of each area's ozone problem, ranging from marginal to extreme. The classification system followed the principle that a more severe problem would require more work and more time to correct. For that reason, the law requires areas with more severe problems to take more actions to reduce air pollution, and allows those areas more time to attain the Federal air quality standard.

Under the law, areas that fail to attain the standard by the statutory deadline could get the deadline extended for up to two years. If they still failed after that extension, they would be ''bumped up'' to a higher classification, giving them more time but also requiring that they do more to control air pollution.

The EPA's 1998 ''bump-up'' policy extended the attainment deadlines for moderate or serious nonattainment areas when pollution transported from outside the area interfered with its ability to demonstrate attainment by the deadline. More than many States, New Jersey appreciates the need to address transport. Over a third of the air pollution in our State is transported from outside our borders. However, we cannot support codifying into law a policy that simply provides extensions and does nothing to address transport.

Granting these cost-free extensions would be easier to justify if a bump-up forced an area to impose costly or onerous requirements to control air pollution. This is not the case. From the beginning, the EPA classified most of New Jersey as severe nonattainment areas. As a result, New Jersey has had to implement almost all of the ozone pollution control measures required under Title I of the Clean Air Act. We required our major sources of ozone precursors to install reasonably available control technology. We required vapor recovery at gas stations. We run an enhanced program for motor vehicle inspection and maintenance, which is much easier to create now than it was when we started.

The truth is that these types of Title I measures are now the ''low hanging fruit'' of

emission reductions. Areas that fail to meet their attainment deadlines can put these measures in place without difficulty or great expense.

It would also be easier to justify these extensions if the areas that received them were merely passive victims of transport from upwind. Unfortunately, many of these areas themselves contribute to poor air quality downwind. Extending attainment deadlines, without requiring additional action, means that these areas by transport will continue to receive unabated air pollution from outside their borders. This air pollution will harm the health of the area's own residents, as well as the health of people who live and work downwind.

New Jersey itself provides a good example of the problem. Again, more than a third of our air pollution comes from outside our borders. At the same time, air pollution from inside New Jersey affects other States downwind. For that reason, we have filed a petition with the EPA to restrict emissions from facilities upwind of us, while States downwind of us have filed similar petitions targeting facilities in New Jersey. We participated in the research that made it clear that ozone transport is a significant issue in the United States, especially in the eastern half of the country. We have also worked actively with other Northeastern and Mid-Atlantic States and with the EPA to develop regulatory programs and legal actions that would address transport.

At the same time, it was never an option to do nothing while we wait for the transport problem to be solved. For that reason, we continued to pursue sources of air pollution that affected our own residents as well as people downwind. Among other things, we reached an agreement with the operator of the three largest coal-fired electric generating units in the State, which will bring advanced air pollution controls to those units.

Givinig a free pass to areas affected by transport does not solve the problem of transport. What will solve the problem of transport is a strong national effort to reduce the formation of ozone air pollution throughout the country, complemented by continuing State and local efforts to find and implement cost-effective ways to reduce air pollution within our borders.

We therefore ask that the existing bump-up provisions of the Clean Air Act be left in place.

Thank you for this opportunity to testify. I am happy to answer any questions you may have.

TESTIMONY OF RAMON ALVAREZ, PH.D., SCIENTIST, ENVIRONMENTAL DEFENSE, BEFORE THE SUBCOMMITTEE ON ENERGY AND AIR QUALITY OF THE COMMITTEE ON ENERGY AND COMMERCE OF THE U.S. HOUSE OF REPRESENTATIVES, JULY 22, 2003

Good morning. My name is Ramon Alvarez and I am an atmospheric scientist in the Austin, Texas office of Environmental Defense, a non-profit, non-partisan, non-governmental environmental organization representing approximately 300,000 members nationally. Thank you for the invitation to share with you the experience of the Dallas/Fort Worth ozone nonattainment area with EPA's attainment date extension policy.

SUMMARY

Achieving the ozone standard in the Dallas/Fort Worth (DFW) area and other U.S. communities is of vital importance of public health. Ozone impairs the body's respiratory system, aggravates existing respiratory diseases, and has been associated as a causative factor in the development of asthma in children. Unfortunately, the DFW area has made little progress in reducing ozone pollution since the passage of the 1990 Clean Air Act Amendments.

The DFW region twice failed to meet the ozone standard, in 1996 (due to a scientifically flawed plan) and in 1999 (after failing to develop a plan prior to the clean air deadline). After EPA threatened sanctions, a new clean air was developed in April 2000. In 2001, EPA proposed to approve this plan, including the request from Texas to extend the attainment date to 2007 without reclassifying the area to severe nonattainment. EPA has indicated that it will not finalize this approval in light of the appellate court decisions on the attainment date extension policy.

As discussed below, transported pollution from Houston has only a minor and infrequent impact on the DFW area. EPA's transport policy, even if legal, was thus erroneously applied in the DFW area, since the evidence shows DFW could attain the ozone standard even if Houston were to do nothing to clean up its air pollution.

As public concern about local air pollution has increased, stakeholders in the DFW area are now more actively working together to agree on a path forward to clean up the region's air. Legislative proposals to extend attainment deadlines pose a serious risk of disrupting these ongoing negotiations that have a good likelihood of reaching a solution that meets the needs of all the parties involved. Moreover, any further delay in deadlines for the DFW area would mean that thousands of children and other sensitive individuals will continue to suffer the adverse health effects associated with ozone pollution.

FAILURE TO REDUCE HIGH OZONE LEVELS SERIOUSLY THREATENS PUBLIC HEALTH

Inhaling ozone significantly harms human health: ozone can burn cell walls in the lungs and air passages, causing tissues to swell, chest pain, coughing, irritation and congestion. Other effects include decreased lung function, aggravation of asthma, increased susceptibility to bacterial infection, and generation of scar tissue and lesions in the respiratory system.

In reviewing recent evidence of the harm caused by ozone, EPA reached an ominous conclusion on the effects of repeated and long-term exposure to ozone: ''EPA has concluded that repeated occurrences of moderate responses, even in otherwise healthy individuals, may be considered to be adverse since they could well set the stage for more serious illnesses.''

EPA's conclusion was confirmed by new evidence showing that children who participate in high activity, outdoor sports in portions of the Los Angeles air basin are 3.3 times more likely to develop childhood asthma than children who play equally active sports in communities with low ozone environments. For most children who develop asthma, it is an incurable lifetime affliction. EPA recognizes that whatever the effect of ozone inhalation on average adults, the impact on those who suffer from asthma, the elderly, outdoor workers, and active children are far more severe.

A lifetime of asthma is a high price to exact from our children for failing to reduce ozone to safer levels. Any further delay in deadlines to meet the ozone standard would mean that hundreds of thousands of American children and other sensitive individuals will suffer the adverse health effects associated with ozone pollution.

HOW DID DALLAS/FORT WORTH COME TO RELY ON THE ATTAINMENT DATE EXTENSION POLICY?

The Dallas/Fort Worth area has had little success in curbing ozone air pollution since the passage of the 1990 Clean Air Act Amendments. Both the frequency of ozone exceedances and the peak levels monitored each year have remained largely unchanged since the late 1980s. (See Exhibit 1). The Dallas/Fort Worth area continues to routinely record 1-hour ozone exceedances, including this year's high value to date of 161 parts per billion.

Under the 1990 Clean Air Act Amendments, the 4-county Dallas/Fort Worth area was classified as a moderate nonattainment area and required to meet the health standard for ozone by 1996. The State Implementation Plan (SIP) submitted to EPA in 1994 contained only the Act's minimum mandatory reduction (15% of the emissions of volatile organic compounds). Notably, this plan lacked any measures to reduce nitrogen oxides, significant reductions of which are now accepted to be essential to achieving the ozone standard. Not surprisingly, the minimalist VOC-only plan of 1994 failed to bring the region into attainment by the 1996 deadline. EPA reclassified (''bumped up'') the Dallas/Fort Worth nonattainment area from moderate to serious in March 1998.

The bump-up to serious required Texas to prepare a new SIP by March 1999. The SIP Texas submitted was, by its own admission, inadequate. Accordingly, EPA found the SIP incomplete and started the sanctions and Federal Implementation Plan clocks.

The looming threat of sanctions spurred the development and submission in April 2000 of a new SIP. This plan relies on EPA's 1998 attainment date extension policy, which is the subject of today's hearing. In January 2001, EPA proposed to approve the April 2000 SIP and extend the attainment date to November 2007 while retaining the area's serious classification.

TRANSPORATION FROM HOUSTON DOES NOT PREVENT THE DALLAS/FORT WORTH AREA FROM ATTAINING

EPA's proposed extension of the DFW area's attainment date is based on a claim that transported pollution from Houston jeopardized the DFW area's ability to attain the ozone standard. The evidence, however, does not support that claim. We accept the notion that emissions from the Houston/Galveston nonattainment area can contribute to observed ozone levels in the DFW area on some days. Since 1996 we have argued that the control strategy for the DFW area must address ozone transport. However, we do not believe that ozone transported from Houston/Galveston would alone prevent the DFW area from attaining the ozone standard.

EPA justified its proposed extension of the DFW area's attainment date largely on two analyses performed by Texas:

Ozone source apportionment analysis. On the day with the highest modeled zone, 2 to 4 ppb of ozone in some portion of the DFW area cam from Houston sources.

Back trajectory analysis. Air masses entering the DFW area had trajectories going back to the Houston area on approximately 10 percent of the days when ozone exceedances were recorded in DFW between 1993 to 1998.

The only conclusion that can be reached from the analyses contained in the administrative record is that on a small number of days, there may be a small amount of additional ozone in the DFW area that came from Houston. Such a result is not surprising—ozone air pollution is known to travel over even longer distances such as from the Midwest to the Northeast. However, the fundamental question that was never answered by Texas or EPA is whether the small amount of ozone originating in Houston that might occasionally arrive in the DFW area is enough to prevent DFW from attaining the ozone standard before Houston's attainment date.

A fair evaluation of the evidence would lead to the conclusion that the Dallas/Fort

Area could still attain the ozone standard even if Houston did nothing to clean up its air pollution. For example, Houston's emissions could be expected to impact the DFW area less than one time per year. Even if all of the monitored ozone on those relatively rare days came from Houston, the DFW area could still comply with the 1-hour standard, which allows for 1 exceedance per year. Thus, EPA's transport policy, even if it were legal, was erroneously applied in the DFW area.

Because transport from Houston is only a minor component of Dallas/Fort Worth's ozone air pollution, attainment of the 1-hour ozone standard will only be achieved after sufficient local controls are in place to eliminate the vast majority of exceedances that are the result of ozone precursor emissions generated within the DFW area itself. It is misguided to blame the small amount of transport from an upwind area as the reason to once again extend a deadline established to ensure the DFW area's more than 4 million residents can breathe healthier air.

LEGISLATION THREATENS LOCALLY-DRIVEN, WIN-WIN SOLUTIONS

In both the Dallas/Fort Worth and Beaumont/Port Arthur areas, legislative proposals at this time pose a serious risk of disrupting ongoing negotiations that have a good likelihood of reaching a solution that meets the needs of all the parties involved.

In the Dallas/Fort Worth area, local government officials, business leaders, EPA, the Texas Commission on Environmental Quality and environmental groups are working in a cooperative spirit to agree on a path forward to cleaning up the region's air. One outcome might be expeditious attainment of the 1-hour standard and early compliance with the 8-hour ozone standard now being implemented by EPA. I and other DFW area stakeholders feel that the current air quality challenges facing the region can best be handled at the local level and that Federal legislation on the attainment data extension policy is not needed. (See for example Exhibit 2, e-mail from Ron Harris, Collin County Judge)

In Beaumont/Port Arthur (BPA), discussions are actively taking place between all the parties (including the environmental plaintiffs, regulated industry, Texas and EPA) to respond to the 5th Circuit Court decision on EPA's use of the attainment date extension policy for the BPA area. These discussions could lead to a negotiated agreement whereby the area would not be bumped up to severe. EPA has already demonstrated the Act's potential flexibility by proposing, in the alternative, a single or double bump up for BPA.

EXHIBIT 2, R. ALVAREZ—TEXT OF E-MAIL FROM RON HARRIS DATED 7/19/2003

To: Ramon Alvarez

From: Ron Harris, Collin County Judge, Co-Chair, North Texas Clean Air Steering Committee

As we discussed yesterday, please relay to the House Committee hearings on delay of attainment dates the following:

The North Texas Area is currently working closely with both local government, business, EPA, Texas Commission on Environmental Quality and specifically Environmental Defense along with Public Citizen to continue efforts at cleaning up the air in North Texas.

The efforts include working with the Texas Clean Air Working Group and the Texas Legislature. In my opinion, we are making progress toward attainment of the National Clean Air Standard.

At this juncture, I think it would be better left to local partnerships to work and not change the rules again, until such partnerships become unsuccessful and mistrust from those involved results in a slowing down of the clean air goals.

WRITTEN TESTIMONY OF J. DAVID FARREN, SOUTHERN ENVIRONMENTAL LAW CENTER BEFORE THE U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON ENERGY AND AIR QUALITY, HONORABLE JOE BARTON, TEXAS, CHAIRMAN: HEARING ON BUMP UP POLICY UNDER TITLE I OF THE CLEAN AIR ACT, JULY 22, 2003

INTRODUCTION AND SUMMARY

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to provide information on the application of EPA's Downwind Extension Policy as an alternative to reclassification, or ''bump up'' as the appropriate mechanism to extend the attainment date under Section 181 of the Clean Air Act (the ''Act''). As an attorney with the Southern Environmental Law Center, which has an office in Atlanta, I have worked closely over the past decade with conservation groups, other citizen organizations, and health professionals in Georgia on issues related to air quality.

The Atlanta area has never achieved the ''one-hour'' National Ambient Air Quality Standard (NAAQS) for ground level ozone, an important step in the effort to protect the health and quality of life of the Atlanta area's four million residents. The Eleventh Circuit Court of Appeals ruled last month that the Downwind Extension Policy is illegal as applied to the Atlanta area. For the following reasons, I urge this Subcommittee not to recommend changes to the Act that would undermine its carefully crafted deadline-driven scheme:

The failure to achieve attainment of the one-hour ozone NAAQS in Atlanta has very little to do with pollution transport and, instead, results overwhelmingly from the failure timely to institute available controls on local sources of pollution. In fact, only 9% of the violation days in Atlanta are contributed to by transport.

Georgia officials project that Atlanta will achieve the ''one-hour'' ozone standard by 2004, which will avoid any additional consequences under the Act that would result from the failure to meet the 2005 deadline applicable to ''severe'' nonattainment Areas.

Reclassification creates a planning opportunity to ensure that the ''one-hour'' standard is attained no later than 2005. In addition to the mandatory measures specified in the Act for ''severe'' areas, Atlanta can choose to implement other measures of its choosing to attain the ''one-hour'' standard and also to make progress toward meeting the new ''eight-hour'' standard which EPA has determined to be necessary to protect public health.

The prompt reduction of ozone pollution in Atlanta will result in significant public health benefits, increased productivity and reduced health care costs. A study published in the Journal of the American Medical Association co-authored by an Atlanta pediatric pulmonologist found that reducing ozone precursors during the 1996 Olympics led to a significant decline in acute respiratory illness.

HISTORY OF DELAY IN ATLANTA

Ground-level ozone, one of the main harmful ingredients in smog, is produced when its precursors, volatile organic compounds (''VOCs'') and nitrogen oxides (''NO_X'') from motor vehicles, smokestacks, and other sources, react in the presence of sunlight. In the thirty years since EPA established the first national ozone standard in 1971, Georgia has never adopted an effective strategy for achieving the pollution reductions necessary to bring the Atlanta area into attainment with the ''one-hour'' ozone standard. Under the 1990 Amendments to the Clean Air Act, the Atlanta area was designated a ''serious'' ozone nonattainment area and was given almost a decade, until November 15, 1999, to develop and implement a plan to control air pollution to attain the NAAQS for ground-level ozone. Unfortunately, the history in Atlanta has been to delay the adoption and enforcement of readily available local controls on ozone precursors. As a result of this failure, hundreds of thousands of Atlantans continue to suffer the adverse health effects associated with ozone, despite the passage of the 1999 deadline for Georgia to implement the emissions reductions required for attainment of the NAAQS.

The 1990 Amendments established a 1994 deadline for Georgia and other states to submit to EPA a plan that would provide for attainment of the NAAQS by the 1999 deadline. *See* 42 U.S.C. §7511a(c)(2)(A). It was not until five years after this submittal deadline, October 28, 1999, that Georgia finally submitted for approval its proposed State Implementation Plan (SIP). Even then, EPA proposed to disapprove the SIP unless Georgia included additional pollution control measures to achieve further emissions reductions. *See* 64 Fed. Reg. 70,478 (Dec. 16, 1999).

A revised SIP with various modifications was not submitted until July 17, 2001, six years after the submittal deadline and almost two years after the deadline for actual attainment. Rather than demonstrating timely attainment of the NAAQS by 1999, this SIP purports to demonstrate attainment by the year 2004 based on EPA's 1998 ''Guidance on Extension of Attainment Dates for Downwind Transport Areas'' (the ''Downwind Extension Policy''). Thus, the delay in attaining the ozone NAAQS in Atlanta is the result of Georgia's delay in developing and implementing a plan to address the long-standing local air pollution problem in Atlanta.

TRANSPORT IS A VERY SMALL FACTOR IN ATLANTA'S OZONE POLLUTION

Never formally adopted as a rule by EPA, the Extension Policy permits the extension of the attainment date without ''bump up'' for some ''moderate'' and ''serious'' nonattainment areas based on EPA's belief that certain of these areas have been hindered in their attempts to meet air quality standards by pollution transported from other states. The Extension Policy, however, does not require a showing of ''but, for'' causation. To be eligible for a waiver of the attainment deadline, the 1999 Federal Register notice announcing the policy explains that downwind areas only need show that transport ''significantly contributes to downwind nonattainment,'' not that transport has rendered attainment by the deadline impossible or even impracticable. 64 Fed. Reg. 14,441 (March 25, 1999).

For Georgia, by example, to be eligible for the policy, it was not required to demonstrate that it was unable to attain the NAAQS in Atlanta by 1999 through more aggressive control of local pollution. In addition, EPA was exceedingly liberal in its interpretation of the ''significantly affected'' standard for application of the policy. In fact, EPA found that ''upwind controls are predicted to reduce the number of exceedances in Atlanta by 9 percent.'' 63 Fed. Reg. 57,446 (Oct. 27, 1998). This means that over 90% of violation days in Atlanta result from local emissions. If Congress were to change the Act to allow extensions based on small amounts of transport, as occurred with Atlanta, almost any area could claim that it is somewhat affected, delaying public health protections for many millions of American families.

As Georgia acknowledges in its most recent SIP revision, the ''worst ozone episodes'' occur during ''multiple day stagnation and recirculation events.'' In other words, the smog days result from extended periods of calm weather where local pollutants hover in the air, not on days where the wind is bringing in emissions from out of state. Thus, it is clear that the most effective way to achieve the public health protections of ozone pollution reduction is to focus on local controls, which Georgia has been reluctant to do.

According to Georgia's submitted SIP, the majority of the emissions that cause ozone in Atlanta come from motor vehicles rather than from transport or stationary sources. The nature of the transportation network, the resulting number of vehicle miles traveled in the nonattainment area and the failure to address this issue are directly related to the severity of the ozone pollution problem. As Georgia acknowledges in its SIP, smog in the area ''is spreading outward in the shape of a giant doughnut,'' and is greatly exacerbated by the fact that Atlantans drive about 35 miles per day for every man, woman and child—more miles per capita than in any other major city in the United States.

Unfortunately, Georgia has been extremely reluctant to address transportation emissions. For example, just this spring it further delayed the implementation of a new low-sulfur fuel rule in the Atlanta nonattainment area at the request of interest groups within the oil industry. In addition, Georgia has repeatedly fallen through on promises to provide funding for transportation options to single occupant vehicle driving, such as commuter rail, HOV lanes and other air-quality beneficial transportation investments. Further, the Atlanta transit system languishes with the highest fare in the country, service cutbacks and no support from the State or suburban counties. Georgia has not attempted to develop and implement timely strategies and programs that have been shown to effectively reduce vehicle travel and motor vehicle emissions. Many such strategies are identified in the Act itself, 42 U.S.C. §7408(f)(1)(A), and even are illustrated in Georgia's SIP as capable of achieving prompt reductions in summer ozone levels in Atlanta.

GEORGIA CAN READILY ACHIEVE THE ''ONE HOUR'' STANDARD IN ATLANTA WITH LOCAL CONTROLS

The proposed SIP for Atlanta based on the extension policy, recently struck down by the Eleventh Circuit, projected that air quality will be improved sufficiently to meet the one hour standard by 2004, after out of state power plants institute required controls under the national NO_X SIP call agreement. Thus, the strategy chosen by Georgia for Atlanta was to sit back and do less to control pollution locally, based on the extension policy, rather than institute more strategies to achieve the NAAQS by 1999.

While this choice for Atlanta is now a fait accompli, it has consequences for the area, the primary one being the delay in public health benefits. The failure to attain also means that Atlanta must be reclassified to ''severe'' status and prepare a new SIP, which contains certain additional control measures. Because Atlanta had projected that it could attain the ''one-hour'' standard even under the prior SIP by 2004, Georgia faces little danger of not meeting the 2005 deadline for ''severe'' areas. These additional control measures, however, should in no sense be considered superfluous, as they are required under the Act to ensure attainment by the new deadline. In addition, the additional measures will be necessary to meet EPA's new ''eight-hour'' ozone standard beginning next year.

Further, to the extent that transport is a small contributor to nonattainment in Atlanta, many of the appropriate controls are in the process of being implemented. For example, Alabama, the largest source of transport that affects Atlanta, has begun this year to implement NO_X controls for most of its power plants. Of course, the most effective way to reduce stationary source pollution in Georgia would be to require further reductions from in-state stationary sources, which are second only to transportation emissions as a source of ozone precursors in Atlanta. For example, two of the older power plants in Georgia, McDonough and Yates, lack the post-combustion NO_X controls of modern facilities.

SUBSTANTIAL PUBLIC HEALTH BENEFITS CAN BE ACHIEVED THROUGH PROMPT OZONE REDUCTION

Ozone is a lung-scarring irritant that affects everyone in the Atlanta region and which can cause or exacerbate serious health problems. For example, people with asthma and others who experience breathing difficulties must limit outdoor activities on days with high ozone levels. Frequently during the spring and summer months, air quality in Atlanta fails to meet the ozone NAAQS established by EPA for the protection of public health.

According to EPA, in 1999, the year established under the Act for attainment, Atlanta violated the existing ''one-hour'' ozone standard on 23 days and exceeded the ''eight-hour'' standard on 69 days. See Georgia Environmental Protection Division air quality data posted at http://www.air.dnr.state.ga.us/tmp/99exceedences/old/index.html. (Due to more favorable weather conditions in the last couple of years, the number of violation days has been lower, as has occurred during previous periods of especially favorable weather patterns.) This means that on many summer days in Atlanta it is not safe for kids to go outside for recess, for the elderly to be working in their gardens and walking in the neighborhood or for healthy adults to exercise outdoors.

Evidence regarding the adverse health effects attributable to ozone pollution strongly influenced the adoption of the 1990 Amendments to the Act. Expert testimony presented to Congress included evidence that: ''Ninety percent of the ozone breathed into the lung is never exhaled. Instead, the ozone molecules react with sensitive lung tissues, irritating and inflaming the lungs. This can cause a host of negative health consequences, including chest pains, shortness of breath, coughing, nausea, throat irritation, and increased susceptibility to respiratory infections. . . . Some scientific evidence indicates that over the long term, repeated exposure to ozone pollution may scar lung tissue permanently. . . . Ultimately, emphysema or lung cancer may result. . . . Young children may be especially vulnerable to both the acute and permanent effects of ozone pollution.''

H.R. Rep. No. 101–490 (1990), reprinted in Environment and Natural Resources Policy Division of the Congressional Research Service, Legislative History of the Clean Air Act Amendments of 1990 3021, 3223 (1993).

The frequent, dangerously high ozone levels in Atlanta during warmer months affect not only children and persons with impaired respiratory systems, but also healthy adults. As the former EPA Administrator concluded: ''Exposure to ozone for six to seven hours at relatively low concentrations has been found to reduce lung function significantly in normal, healthy people during periods of moderate exercise. This decrease in lung function is accompanied by such symptoms as chest pain, coughing, nausea, and pulmonary congestion.'' 60 Fed. Reg. 4712, 4712 (Jan. 24, 1995). In reviewing more recent evidence of the harm caused by ozone, EPA published a lengthy notice summarizing the adverse health effects of both short-term and long-term ozone exposure. According to the Agency, the effects of short-term exposure on healthy individuals include reduced lung function, chest pain, reduced productivity, increased susceptibility to respiratory infection, and pulmonary inflammation. 66 Fed. Reg. 57,268, 57,274–75 (Nov. 14, 2001). With respect to repeated and long-term exposure, the finding is ominous: ''EPA has concluded that repeated occurrences of moderate responses, even in otherwise healthy individuals, may be considered to be adverse since they could well set the stage for more serious illness.'' Id. at 57,275.

These general findings by EPA have been underscored by additional research conducted in many cities, including Atlanta. One recent study published in the prestigious peer-reviewed Journal of the American Medical Association on February 21, 2001 demonstrates that when ozone was reduced in Atlanta by encouraging alternatives to motor vehicle travel during the 1996 Olympic Games, the number of children requiring emergency or urgent care for asthma decreased dramatically. There was a 41.6% decline in visits for Medicaid claimants, a 44.1% decline for HMO enrollees and a 19.1% decline in overall hospital asthma admissions. A copy of this study is appended to this testimony, which is entitled ''Impact of Changes in Transportation and Commuting Behaviors During the 1995 Summer Olympic Games in Atlanta on Air Quality and Childhood Asthma.''

The study specifically tied the positive public health results to the lower ozone concentrations due to a reduction in vehicle emissions. Overall, during the Olympics there was a 27.9% decrease in ozone and no violations of the ''one-hour'' standard. In contrast, the standard was violated on five days immediately before and after the games. While favorable weather conditions contributed somewhat to the lower pollution levels, this dramatic percentage decrease in ozone pollution and emergency care was substantially contributed to by the 22.5% decrease in peak morning traffic counts resulting from travel demand strategies, increased transit service and other programs encouraged in the Act to reduce transportation emissions.

CONCLUSION

''Bump up'' of Atlanta to ''severe'' is an example of the Act working as Congress intended: If a deadline is not met, a new SIP with additional controls is required to ensure that a new deadline is met. The most recent Supreme Court case addressing the Clean Air Act statutory scheme noted that the NAAQS is the ''engine that drives nearly all of Title I of the CAA,'' id. at 468, and characterized the attainment deadline provisions as the ''backbone'' of the ozone control requirements for nonattainment areas. Whitman v. Am. Trucking Ass'ns, Inc, 531 U.S. 457 (2001). Codification of EPA's extension policy would fundamentally weaken the deadline and incentive structure in the Act carefully crafted by Congress in 1990. Instead, it would reward officials, at the expense of many citizens—including the four million residents of Atlanta, who fail to take all appropriate steps to address local ozone pollution. This would set a dangerous precedent that would undermine the Act at a time when the scientific consensus is that more, rather than less, must be done to protect the public from ozone pollution.

TESTIMONY OF DAVID S. BARON, ATTORNEY, EARTHJUSTICE, BEFORE THE SUBCOMMITTEE ON ENERGY AND AIR QUALITY OF THE COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, JULY 22, 2003

INTRODUCTION AND SUMMARY

Mr. Chairman and members of the Subcommittee, my name is David S. Baron. I am an attorney with the Washington, D.C., office of Earthjustice, a nonprofit law firm that represents conservation and community groups on a wide range of environmental and public health issues, including air quality. Our clients on clean air matters include the American Lung Association, Sierra Club, Environmental defense, and others. I am very familiar with the Clean Air Act, having specialized in enforcement of that statute for more than twenty years at the local, state, and national levels. In 1996–97, I served on the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs, a Federal Advisory Committee to the U.S. Environmental Protection Agency (EPA). I have also taught environmental law courses as an adjunct professor at the University of Arizona College of Law and Tulane Law School.

I appreciate your invitation to discuss the Clean Air Act's requirements for reclassification (or ''bump up'') of areas that fail to timely meet clean air standards, and EPA's prior attempts to waive bump up for cities affected somewhat by air pollution transported from other areas. I strongly believe that EPA's waiver of bump ups via its ''downwind extension policy'' not only violated the Clean Air Act, but also wrongly delayed measures that are sorely needed to protect public health in these and other communities.

BACKGROUND

In the late 1990's, EPA announced an ''Attainment Date Extension Policy'' (sometimes called the ''downwind extension'' policy) that was not authorized by the Clean Air Act. This unfounded policy allowed industries to pollute at higher levels for longer than the Clean Air act authorized merely because they were located in cities affected somewhat by pollution transported from other areas. EPA applied the policy to unlawfully extend clean air deadlines for a number of cities without requiring them to be reclassified into more protective pollution categories with stronger pollution controls. The courts invalidated this policy as being completely contrary to both the language and purpose of the Clean Air Act.

The 1990 Clean Air Act, signed by the first President Bush, classified cities as marginal, moderate, serious or severe based on the severity of their ozone pollution problem. Areas with higher classifications were given more time to meet clean air standards, but also had to adopt stronger anti-pollution measures. The clean air deadline for moderate areas was 1996, for serious areas 1999 and for severe areas 2005 or 2007.

Wher a city missed its clean air deadline, the Act required that it be reclassified (''bumped up'') to the next highest classification. For example, if a serious area failed to meet standards by 1999, it was to be reclassified to severe. It would then be given until 2005 to meet standards, but would also have to adopt the stronger pollution controls required for severe areas.

Reclassification triggers stronger pollution control requirements for industry as well as additional measures to reduce pollution from car and truck exhaust. These stronger measures are already required in numerous communities throughout the nation, including Chicago, Milwaukee, Baltimore, Philadelphia, New York, Los Angeles, Wilmington, Trenton, Sacramento, Ventura County (CA), Riverside County (CA), and San Bernardino County (CA).

Relying on its unfounded extension policy, EPA extended the clear air deadlines for a number of cities without bumping them up to the higher pollution categories that would require the adoption of more protective ozone control measures to help address the adverse public health impacts resulting from the additional delay. EPA also allowed these areas to postpone the adoption and implementation of local measures that were necessary for each area to attain the ozone health standard on the original schedule, thereby postponing a large portion of the public health benefits from reduced ozone that these measures would have achieved. In addition, EPA waived the statutory requirement that each area continue to reduce emissions by 3% annually until the area attains the standard. Three separate federal appellate courts have all ruled that EPA's policy violates the language and purpose of the Clean Air Act. In voiding the extension policy as applied to the Washington, D.C. area, Chief Judge David Ginsberg of the U.S. Court of Appeals for the D.C. Circuit, wrote that ''to permit an extension of the sort urged by the EPA would subvert the purposes of the Act.'' Sierra Club v. EPA, 294 F.3d 155, 161 (D.C. Cir. 2002) (emphasis added).

HARM TO PUBLIC HEALTH FROM EPA'S DOWNWIND EXTENSION POLICY

EPA's application of this discredited policy has delayed adoption of additional pollution controls that are badly needed to meet clean air standards in Atlanta, Washington, DC, Baton Rouge, and Beaumont Texas. The illegal extensions have burdened the public in those areas with dirty air until at least 2005 without the additional pollution controls already required in other cities. As a result of EPA's illegal deadline extensions, the air in these cities is substantially dirtier than it should be.

If the Clean Air Act were weakened in an attempt to legalize EPA's extension policy, this would delay the adoption of badly needed antipollution measures in the affected communities. Last summer, the Washington, DC area, for example, suffered from the worst ozone pollution in more than a decade, exceeding the 1-hour standard on nine days, and recording another 19 days when the air was deemed unhealthful for children and persons with lung ailments. On all of these days, children were warned to limit outdoor play. By some estimates, breathing difficulties during a typical smoggy summer in the DC area send 2,400 people to the hospital, and cause 130,000 asthma attacks.

Last year alone, the Beaumont/Port Arthur, Dallas/Fort Worth, and Houston/Galveston regions exceeded the one-hour ozone standard on three, seven, and 26 days respectively. Atlanta exceeded the one-hour ozone standard seven times and the 8-hour ozone standard 38 times. Ultimately, delay of stronger pollution controls has left the air in these cities more unhealthful than it would have been had the law been followed.

Adoption of the EPA policy would also make it harder for other communities to meet clean air standards. Pollution from cities like Washington, Atlanta, Beaumont, and Baton Rouge can be transported elsewhere, where it contributes to ozone violations. Cities like Baltimore, Philadelphia, and New York that have already adopted more protective ''severe'' area measures should not have to suffer pollution from upwind cities that have failed to adopt the same level of control.

EPA'S DOWNWIND EXTENSION POLICY IS UNFAIR TO STATES THAT DID THE RIGHT THING

As noted above, many states and cities have already adopted the more protective control measures associated with higher pollution classifications. These areas are also affected by transported pollution, a situation understood by Congress at the time that the 1990 amendments placed them in these higher classifications. Adoption of EPA's policy, accordingly, would have an inequitable impact on areas that are already doing the right thing without resorting to delays that imperil the health of their citizens.

EPA's extension policy has been opposed by Republicans as well as Democrats. In 1999, the State of New York under a Republican administration, criticized EPA's extension policy. The State noted the inequity of allowing some states to avoid achieving timely clean air while other states—also affected by transported pollution like New York—were already undertaking necessary, effective control steps: ''[T]hese more effective control steps [required for higher nonattainment classifications] already have been implemented in many areas of the country and have been proven to reduce the emissions of ozone precursors. Implementation of these measures would help level the playing field among the states, provide some localized relief of ozone levels, and help the affected areas in their efforts to achieve the revised eight-hour ozone standard.''

In 1999, the State of Ohio, also under a Republican administration, criticized this same attainment date extension policy and approach: ''U.S. EPA is rewriting one of the most important and substantive measures placed in the 1990 CAA. . . .

''Ohio EPA does not believe that the CAA intended that extensions be granted to areas which have not demonstrated attainment. In some cases, these areas have not implemented current CAA requirements and would not achieve the 1-hour ozone standard even after transport had been addressed. These areas need an additional level of local controls, which is the precise purpose of the bump-up provisions of the CAA.''

Thus, a roll back of pollution control requirements under a policy will harm the public health of citizens locally and regionally by delaying more rigorous ozone pollution abatement measures needed to meet clean air standards.

In its unsuccessful defense of its extension policy, EPA claimed that deadline extensions and bump-up waivers for some areas are justified because those areas are impacted somewhat by pollution transported from other areas (generally within the same state). But other cities with higher classifications—and therefore stronger local pollution control requirements—are also impacted by transported pollution—in some cases to a much greater extent. For example, transported emissions account for a smaller percentage (24%) of the ozone problem in the Washington, D.C. area than in areas that were previously classified as severe, such as Baltimore (56%), Philadelphia (32%), or New York (45%). Conversely, EPA's data for Atlanta shows that implementation of the NO_X SIP call controls would eliminate only 9% of the days with expected ozone violations. For Baton Rouge, EPA has found that only 7% of ozone exceedance days between 1996 and 2000 were potentially associated with transported pollution from Houston.

This situation was also true when Congress adopted the 1990 amendments and established the classifications system with its consequences for failure to attain air quality standards. Indeed, Congress was aware of EPA's assessment of the ozone transport problem in its post-1987 attainment date analysis of he reasons why ozone areas failed to attain, and adopted into law EPA's decision ''not to allow a delay in submittal of the post-1987 ozone attainment demonstrations and revised SIPs for areas affected by [regional transport].'' 52 Fed. Reg. 45,874.

CURRENT CIRCUMSTANCES MAKE EPA'S EXTENSION POLICY EVEN LESS DEFENSIBLE

EPA's policy was ill-advised when it was adopted in 1999, for many of the same reasons given by Ohio and New York above. But whether or not the policy was a good idea then, circumstances have changed in such a way that its codification now would be a terrible idea. Technical advances reflected in EPA's new MOBILE VI emissions estimation model are showing that many areas have much larger local emissions problems than were previously thought, and greater local emission reductions will therefore be needed. Moreover, with the upcoming implementation of EPA's more protective 8-hour ozone standard, the areas affected by EPA's policy, and many other areas as well, will need to implement the suite of protective control measures required in the 1990 Clean Air Act Amendments, in addition to reductions in transported pollution. Many of the areas for which EPA has sought to avoid the stronger pollution control measures associated with reclassification are already exceeding the 8-hour ozone standard repeatedly each year. It is insupportable to delay local control measures needed to reduce these annual exceedances, thereby exacerbating local air quality and public health problems, and forestalling the meaningful steps that will be necessary to attain the 1-hour and 8-hour ozone standards.

Mr. HOLT. Mr. Speaker, I rise in support of the motion to instruct offered by my colleague from Texas, EDDIE BERNICE JOHNSON.

Ms. JOHNSON is understandably upset about the provision she is trying to remove from the energy conference report. Under a shroud of secrecy, the way virtually all of the energy negotiations have happened so far, a provision was slipped in that will extend deadlines for cities to clean up their dirty air. This will have dramatic effects on the health of Ms. JOHNSON's constituents.

I'm not here because of any city in my district that isn't complying with clean air regulations. I'm here because New Jersey has the unfortunate distinction of being number one in worst smog pollution for 2002, according to a recent New Jersey Public Interest Research Group Report. Even by the EPA's 8-hour standard, New Jersey has the second-worst pollution in the country.

New Jersey's efforts to clean up our air are laudable. The state has implemented a large number of ozone control measures and even negotiated a deal to close two coal-fired power plants in a neighboring state. But there is simply no way that the state can adequately tackle this problem—New Jersey can't control the jet stream. Because prevailing winds carry pollution from plants in the Midwest to the East Coast, much of the smog, soot, and fine particulates that endanger the health of state residents do not come from in-state sources.

That's why the federal government needs to take an active role. This was the motivation behind the 1970 Clean Air Act and the New Source Review rules. The Clean air Act has helped the country take major steps towards making the air we breathe better for our health.

So just like Ms. JOHNSON, I am dismayed to see that members of the energy conference committee have slipped in this provision that will undermine the spirit and the letter of the Clean Air Act.

It seems that some of the conferees are working in concert with the Bush Administration to conduct a frontal assault on clean air protections and to let polluters get out of making necessary environmental upgrades.

Take New Source Review, for example. NSR is an important part of the Clean Air Act that requires power plants, chemical factories, and other large industrial facilities to adopt effective emission controls when expansions or upgrades lead to increased pollution. According to the EPA, this has meant keeping 300 million tons of pollution out of the atmosphere in areas that meet national air quality standards.

The Administration has proposed changes to the New Source Review program that will create gaping loopholes in clean air protections. Facilities would be allowed to increase the amount of pollution they emit if the cost of making a change is less than a certain percentage of the cost of the entire facility. Thus companies can easily make incremental changes to renovate a facility without triggering NSR. And even if the cost of the upgrade does exceed the percentage trigger, plants will still not need to implement pollution controls if the upgrade consists of replacing existing equipment with new equipment performing the same function, regardless of cost.

These are changes that have been clearly demonstrated by numerous experts—including Abt Associates, who has done research for the EPA—that will result in more premature deaths and more cases of asthma and other respiratory illnesses.

I came to Congress five years ago to represent the people of the 12th District of New Jersey. It's pretty obvious that among the more important responsibilities I have in representing my constituents is standing up for them when someone is making them sick or killing them—the way air pollution is now.

That is why I urge all of my colleagues to support the Johnson motion to instruct.

Ms. WOOLSEY. Mr. Speaker, I would like to thank the gentlewoman from Texas for offering this Motion to Instruct Energy Bill Conferees.

Instead of working on an Energy Bill that will work to solve our nation's energy crisis, the Republicans are holding a conference without any Democrats and now they are trying to add in riders to weaken the Clean Air Act. What will they think of next?

This rider allows polluters to further delay establishing clean air controls—contributing to air pollution that bellows out of giant smokestacks and puffs out of tailpipes. This air pollution has led to a record number of people with asthma, particularly in our cities. By trying to attach this rider to the Energy Bill, the Republicans are showing once again that they do not value clean air or the health of Americans.

And the sad fact is that children are the most vulnerable to air pollution. They spend more time outdoors, they inhale more pollutant per body weight, and their bodies, lungs and immune systems are still developing. Children are particularly vulnerable to smog and soot—continued exposure can scar and severely damage children's lungs.

Instead of weakening the Clean Air Act, the Republicans should be using this opportunity to develop and use new technologies and to cut our reliance on dirty energy fuels. Unfortunately, in the Energy Conference, the Republicans have chosen the interests of big business over the health of the American people.

Mr. Speaker, I ask my colleagues to join me in supporting this motion to instruct.

Mr. BURGESS. Mr. Speaker, I rise to speak against the Motion to Instruct Conferees on the H.R. 6, The Energy Policy Act.

As discussed thus far, under the Clean Air Act of 1990, areas designated as ''severe'' nonattainment areas, such as Houston, must meet the 1-hour standard by 2007, and Dallas, classified as ''serious'' areas was required to meet the 1-hour standard by 2005.

Wind currents can transport ozone and its chemical components over long distances, which can have an adverse affect on the air quality of areas that are downwind of more severe nonattainment areas. For example, Houston's air quality can impact Dallas's air quality.

In 1998, under the direction of President Clinton's EPA Administrator Carol Browner, the EPA promulgated transport policy rules that allowed the EPA to allow affected ''moderate'' and ''serious'' areas until 2007 to meet the 1-hour standard. This common sense rule simply allows cities to take into account the ozone that is transported from other cities.

Strict judicial interpretation of the Clean Air Act of 1990 said that the EPA did not have statutory authority to promulgate this rule. As a strict constitutionalist, I was glad to see the judicial restraint exhibited by these decisions.

However, I think it is important to note that Congress did not give the EPA this authority under the Clean Air Act of 1990 because Congress was not aware of the impact of ozone transport on air quality at that time. Since 1990, the science has improved to the point that we are aware of and better able to determine the impact of the transport of ground level ozone.

That is why there is a provision in this year's energy bill to give EPA that authority, if they so choose.

Some have claimed that this will ''roll back'' the Clean Air Act, and that is just not true. The State of Texas and other affected States and the cities of Dallas and Fort Worth are not going to stop working toward clear air. In fact, as recently as reported last Friday in the Fort Worth Star-Telegram, the North Texas Clean Air Steering Committee said that they will not slow down efforts to clean the air if Congress pushes back the deadline.

As a member of the Transportation and Infrastructure Committee, I do not support tying the issue of ozone transport to my district's transportation funding. I do not believe that taking away transportation funding from the Dallas-Fort Worth region will result in improved air quality.

In fact, I believe eroding our transportation funding would adversely affect air quality because studies have shown that automobiles operate more efficiently at around 60 miles per hour than at lower speeds such as those cars idling during bumper-to-bumper traffic in bottleneck areas, such as on Interstate 35 East in my district. A more efficient motor decreases the amount of ozone-creating pollutants that are released into the air. This is especially important to the Dallas-Fort Worth region because EPA studies have shown that our region's air quality is especially affected by mobile-source (automobile) pollution.

If my colleagues disagree with me and believe that we should decrease transportation funding in order to improve air quality, I am more than happy to accept their piece of the transportation funding pie. I know we all agree—we need to keep our cash on the dash!

Clean air is one of the most important legacies that we can leave our children. If we are going to preserve this world for future generations, we must take steps that will protect our

natural resources, but we must also not harm our economy.

If you cannot identify the source, and control the source, you cannot effectively reduce ozone. I will vote against the Motion to Instruct Conferees on H.R. 6.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

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

Mr. BARTON of Texas. 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, further proceedings on this motion will be postponed.

GENERAL LEAVE

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this motion to instruct.

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

There was no objection.

□ 2000

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mr. DAVIS of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. NUNES). The Clerk will report the motion.

The Clerk read as follows:

Mr. DAVIS of Florida, moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed to reject the provisions of subtitle C of title II of the House bill.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Florida (Mr. DAVIS) and the gentleman from Virginia (Mr. CANTOR) each will control 30 minutes.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion instructs the House medicare conferees to reject the provision in the House Medicare bill that I believe can be fairly characterized as leading to the privatization of Medicare. The House leadership has cleverly described this provision by calling it premium support. But how much support this premium support provision truly provides beneficiaries should be the subject of an open, honest and detailed debate tonight out of respect for the Nation's seniors who simply want to see us get something done.

I also want to pause to point out that there are a number of Republicans and Democrats here in Congress who truly do want to find a middle ground, a compromise between the House and the Senate, between Democrats and Republicans, to achieve a long overdue Medicare prescription drug bill. Many of us have been very consistent in arguing that that is not achievable as long as the premium support issue, which is the subject of this motion, is part of a final bill. So the motion tonight is an attempt to remove a provision which many of us believe represents an obstacle to a compromise to a truly practical long overdue prescription drug benefit for our Nation's seniors.

Now, what the premium support provision does is to allow seniors in the year 2010 to have what is being described as a meaningful choice as to how to obtain their Medicare coverage. Not just for the drug benefit. This is for the entire Medicare program. And the concern I wish to express tonight on behalf of seniors throughout the United States, Democrats, Republicans, independents, seniors who really are not interested in politics but are simply interested in seeing a drug benefit that they can use, is that the premium support provision in the year 2010 forces seniors throughout the United States to make a choice as to how they are going to receive health care, and that this is going to be a problem for those seniors who have health issues.

I think one of the many things that we can agree upon tonight on the floor of the House of Representatives is that there are a number of seniors who have health issues as they approach the age of 65, or long before then; and that is what this debate is about.

I met with the incoming president of one of the major private insurance companies in Florida a few weeks ago, and it could have been any insurance company or any CO of an insurance company; and I said to him, if this were to become law in 2010 and my mom had some health issues and she went to you and tried to get insurance, would you offer her insurance? What he told me, and I respect his candor, is we really do not want people that have health issues in our policies. We are looking for healthy people. They are easier to insure, the risk is more certain, it is more affordable, it is easier to earn a reasonable profit; and so that is the type of beneficiary we are looking for.

And if somebody is in the private sector, I understand his point of view. He is trying to earn a profit on behalf of his company. And if the government does not force him to choose to accept people like my mom or somebody else's mom with some health problems, he is not going to do it. So what this debate is about tonight is what happens to that individual, somebody over 65 who has some health problems or develops health problems.

Now, Mr. Skully, who is the administrator of the Federal agency, the Center for Medicare and Medicaid Services, which has a slightly different name now, said in 2001, in the fullest candor, which I respect, that there was a problem with private plans charging higher copayments for those people with health risks that they did not want to accept, and that we who are entrusted in the Federal Government to provide a Medicare program that truly works should be concerned that private plans will use higher copayments and other devices to discourage people from signing up for their plans.

And that is exactly what I am talking about here tonight. Because under this premium support provision, which I would also refer to as a voucher, but it is whatever you choose to call it, in 2010 an individual with a health problem is going to have one of two choices: they can either try to get into a private plan, which again I would submit is not going to want them and is going to discourage them and is going to have the full ability under this bill to do that, and if that person with some health issues who is over 65, that Medicare beneficiary cannot get into the private plan, they are left with the crux, I would say the cruel result of the premium support plan.

I will attempt to explain that. And in the debate tonight, I hope we can reach some agreement as to what the facts are, and then we can debate the differences as to how we interpret those facts and where the values of our country lie in terms of how we treat this beneficiary and in terms of how Congress designs this plan.

The second choice that is available to that Medicare beneficiary, if the private plan rejects him, is they receive a voucher. Now, what that voucher represents in terms of value is a dollar figure that is based on the average cost of insuring a person who is in a private plan. Because in a private plan I think we can safely say those beneficiaries are going to be healthy, their health care bill, of course, is going to be less. It is going to be less expensive to insure them. So that individual who receives the voucher is going to receive a voucher that is equal in value to the average cost of a healthy beneficiary whose costs are lower.

Now, what does that all translate into? What that means is that with this voucher, if you have some health issues and therefore your health care bills are higher, that voucher is not going to provide to you enough money to get you through the month or to get you through the year. I believe it is fair to say that we face a situation where these Medicare beneficiaries with health problems that have been rejected by these private plans are going to get enough money to almost get them through the month or to almost get them through the year.

Matter of fact, the chief actuary who works for the CMS, the Federal health care agency, said in a piece of paper that under this premium support or voucher plan, that premiums could go up as much as 25 percent for this individual I am describing who could not get into a private plan and has to find another way to cover their health care costs. Twenty-five percent, that is a lot of money.

And remember, when we are talking about a Medicare beneficiary who has some health problems, we are talking about somebody who probably is having difficulty paying their other bills. They are fighting for their health, and they are probably getting into some serious financial duress. And under this premium support voucher plan, we are going to add to that duress. Because what you are left with is a Medicare beneficiary with health problems who at the end of the month or the end of the year their Medicare runs out.

And that is what we are debating tonight: Do we believe as a Congress that Medicare should ultimately leave that individual without the support they have always had when it gets to the end of the month or the end of the week? And I think the answer is clearly no.

The basis for the premium support, and I salute my colleagues on the Republican side who have been very clear in explaining what the purpose of this premium support provision is, is to reduce the cost of Medicare. You can call that reducing the rate of growth in Medicare, you can call it cutting Medicare, but what you can fairly say is this is about reducing the cost of Medicare.

And my colleagues, this is what it boils down to: Are we as a Congress going to reduce the cost of Medicare by saying to that Medicare beneficiary who is struggling to recover their health, that at the end of the week, at the end of the month, you are on your own? You are on your own; we wish you well. Medicare as we know it is no longer there to get you through the week. It is no longer there to get you through the month. We wish you well, and it is on your back that we are reducing the cost of Medicare.

I would suggest that that is an indefensible proposition; that there are seniors throughout the United States, Democrats, Republicans, independents, people who simply want the drug benefit, want the Medicare program they have come to know and trust who think it is fundamentally unfair that the growing number of seniors in this country who struggle with health issues after the age of 65 are forced to try to find the funds at the end of the week or the end of the month to meet the health care bills that we will no longer be able to meet for them through the Medicare program.

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

Mr. CANTOR. Mr. Speaker, I yield myself such time as I may consume, and I too am delighted to be here to debate with the gentleman from Florida the motion to instruct which he offered.

Mr. Speaker, I think there is a consensus in this body that we do something to save the Medicare program. All of us know the demographics, all of us know the health of the system itself is in jeopardy, and we must do something to reform the program to ensure its financial health and longevity.

It is interesting, Mr. Speaker, the gentleman from Florida insisted that we ought not go the route of market-based competition and we ought not allow the competition of private sector plans to come into play to give seniors a choice of how they want their health care delivered. But I heard no ideas come forth from the gentleman. Where is his solution?

I think it is fairly indicative that there is no solution coming from the other side, and that they probably, I do not want to put words in the gentleman's mouth, are satisfied with the status quo. But we cannot be satisfied with the status quo. We must reform the system. We must modernize it, and we must update it so that seniors can have a choice and seniors can have access to a prescription drug benefit.

So if we call premium support, as the gentleman said, a voucher, I think it is a characterization that perhaps may not adequately or accurately reflect what the House bill does. And let us start back from the very beginning when a bipartisan commission on the future of Medicare studied this. It concluded that the best way to reform Medicare was to provide beneficiaries with a choice of plans similar to the choice available to Members of Congress, the FEHBP plan, which we all have access to. And certainly I would think we would want to share that same type of health care with the millions of seniors out there who may not currently enjoy the same type of options under the plan.

But to talk to the gentleman's allegations that the House bill would only squeeze out the unhealthy seniors and would deny them access is simply not true. Absolutely not true. At 2010, when competition sets in, the rates that are set at that point are not just the average rates.

And since we are talking about the facts, and the gentleman says he hopes we can agree on the facts, the facts are that in the House bill the average rates are a blended rate, a blended rate of the then-private plan rates as well as the government rate that was used as a benchmark up until that point. And at that point we will then have market forces coming to bear, and we will enable plans to compete for business. And if plans can come in under that benchmark or that blended rate, then there will be a benefit for seniors to choose those plans because they, as well as the government, will be able to share in the savings in the costs of those premiums.

But to speak to the gentleman's conclusion, that if we have competition we will ultimately deny seniors health care, that is just preposterous. There are provisions, if he would look at the facts in the House bill, there are provisions which allow for an adjustment in premiums of the government program. No one ever said that there would not be an option in the government program. Nothing changes a senior's entitlement to Medicare. There is no change in entitlement.

And if, as the gentleman suggests, that perhaps there is a disproportionate number of the population of ill or more sick seniors that are in the government program, there is a provision in the bill which allows there to be an adjustment in the premium so as to avoid the exact problem the gentleman points out. Those are the facts.

And to conclude, Mr. Speaker, again, we have got to do something about Medicare. Medicare and the demographics supporting that program do not bode well given the current state of affairs. I do not hear a single solution coming from the other side, which seems to suggest that there perhaps may be an obstructionist plan not to allow Congress to pass a prescription drug benefit plan this year, but that is what America's seniors wants and that is what we must do.

The bill that passed the House offers us a way to reform the system, to achieve savings, to allow seniors to have choice in their health care, and choice just as we here in Congress enjoy in the FEHBP program.

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

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Mr. DAVIS of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I have great respect for my colleague, the gentleman from Virginia (Mr. CANTOR), but when I listen to the arguments being made, I have to reject them outright. The gentleman talked about how Medicare is going broke and the gentleman said, What is the solution? Well, the solution is for the Republican leadership in the House and the Republican President to abandon their failed economic plan, which essentially over the last 2 years has been to create more and more tax cuts, drive the Federal Government into deficit, the biggest debt we have had in anybody's memory, and borrow all of the money from the Medicare trust fund so it goes broke.

Mr. Speaker, if we keep borrowing from the trust fund in order to pay for tax cuts for the wealthy, of course there is not going to be money in Medicare. The solution is easy, get rid of the tax cuts that are primarily favoring the well-to-do and corporate interests, and then Medicare and the trust fund will have money and there is a solution to the problem.

That is what we were doing when President Clinton was in office, we

were getting out of debt, and we had a balanced budget. The other side of the aisle created the problem, the economic downturn, and the situation where the trust fund does not have the money; so do not talk to me about solutions, they are easy: Get rid of the failed Republican economic plan.

I listened to what the gentleman said, and he was honest about the facts. He said in 2010 there is going to be a blended rate of the government plan and private plans, but what the gentleman fails to tell us is this blended rate is less than what traditional Medicare costs at that point. Because there is a voucher system in place, the senior who wants to stay in traditional Medicare is going to pay more. There is a blended rate with the traditional Medicare and the private plan. If the traditional Medicare costs more, seniors will have to pay out of pocket, and most seniors who want to stay in traditional Medicare will not have enough money to pay out of pocket. It could cost them $500 more a year, $1,000 more a year, $4,000 more a year, the sky is the limit. Increasingly, a lot of seniors will drop out and not be able to have traditional Medicare. That is why we say essentially what they are doing is trying to save money, and they are saving money by keeping money from access to traditional Medicare.

The gentleman talks about choice of plans. How is there a choice of a plan if you cannot afford to pay for the plan you want, which is traditional Medicare. And meanwhile, you lose your choice of doctor and your choice of hospital because the only way you can get your health care is by joining an HMO, a private plan. So you do not have a choice of plan because you cannot afford to stay in traditional Medicare. You do not have a choice of hospital or doctor because you have to go into an HMO to get your health care.

The facts are simple. The other side of the aisle is setting up a voucher. They do not care about the traditional Medicare program. They say it costs too much when, in reality, they have created the situation that is making it go broke, and it is not really broke, but certainly it will be if we continue with this economic policy.

I have to look at it from the point of view as a senior citizen. They want to privatize. So you have to say, we will give you a drug benefit, but you have to join an HMO to get the drug benefit. And you are sort of dangling the opportunity for a drug benefit out there, but in the course of getting that drug benefit you are setting up a program with this premium support or voucher which essentially privatizes Medicare and forces people out of the traditional Medicare program.

So it is really an effort to sort of ''behind the scenes'' get the seniors out of traditional Medicare and force them into HMOs by suggesting somehow we cannot afford traditional Medicare and that this is the only way to get a drug benefit.

I think they have to be honest about what they are doing. I support the motion of the gentleman from Florida (Mr. DAVIS) because it makes quite clear that on the Democratic side of the aisle, we do not want seniors forced into vouchers or forced into HMOs. We do not want them losing their choice of doctors or choice of hospitals, and we do not want to set up a situation where essentially we kill traditional Medicare. That is what the Republicans are all about, and that is why we need to support this motion to instruct.

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

Just to respond to the gentleman from New Jersey's statements, first of all about the need for us to reverse the trend toward giving people and businesses back more of their hard-earned money, so they can invest that money creating opportunity, so we can actually grow this economy the way we are seeing it grow as a result of the Bush tax cuts that we have passed in this Congress. And setting that aside, Part A is funded by the trust fund, and Part A has a surplus in it. But Members know the demographics. Just like the Social Security situation, the demographics in this country are betting against us because as more and more people retire, less money will be paid into the program and more people will be on the back side benefiting from the program. That is the problem with Part A.

Part B is funded by general revenues. As we continue to put money into Part B, and we continue to see rising health care costs, estimates are that a third of people's income will be used in the next 20 or 30 years to fund the Medicare program. I do not think any of us want to see our children and grandchildren saddled with that kind of debt off into the future. That is why we have to act now. That is why we have to reform this program, we have to afford ourselves efficiencies, we have to save money, and we have at the end to provide seniors with a health care plan that affords them choices.

I will also tell the gentleman, I am having difficulty following the argument about the blended rate and about the fact that we are going to have a blended rate that reflects both private rates, as well as the rate in the government program. That is the beginning. That is the transition into the formula which after 5 years will then reflect basically the rates that are out there in the marketplace for the predominance of the public, the seniors who are in the private plans. And the gentleman just said the private plans will be cheaper, so if the private plans are cheaper, then the government plan and the fee to get into the government plan will reflect the costs offered by the private plan. I am having trouble with the sort of circular argument that you cannot have these private plans succeed because only the nonsick will enter them and will leave all of the sick people in the government-run program which we already said there are provisions in the bill to address that.

Also, we are talking about doing something to reform and better the program. We are talking about updating and modernizing the program. I hear nothing from the other side of the aisle which even suggests that we should go forward to offer seniors a real choice in health care just as we have as Members of Congress.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN), the ranking member on the Subcommittee on Health.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman yielding me this time, and thank the gentleman for the good work he does on health care on the Committee on Energy and Commerce.

Mr. Speaker, I rise in support of the Davis motion. Under H.R. 1, Medicare, pure and simple, ends as we know it, as the gentleman from California (Mr. THOMAS) the chairman of the Committee on Ways and Means has predicted and has worked towards, it ends in 7 years. In 7 years, regardless of what Republicans tell us, Medicare will be replaced by a voucher to cover part of the premium for health insurance. As the voucher goes into effect, seniors out-of-pocket costs increase. Medicare no longer, under the plan of the gentleman from California (Mr. THOMAS), under H.R. 1, under the Republican plan, it no longer guarantees seniors and disabled Americans access to the health care that is deemed medically necessary for them. The government would contribute a set number of dollars to an HMO or some other health insurance; beneficiaries foot the rest of the bill. The government may, although they have not under HMOs so far, may save money; but every dollar the government saves comes out of middle-class and lower-income seniors' pockets.

So much for the Medicare entitlement, so much for guaranteed benefits, so much for choices that matter: Choice of hospital, choice of doctor. I love it when Members on the other side of the aisle say seniors want more choice. They want choice of hospital and doctor. That is what Medicare gives them. They are not asking for choice of insurance agent or insurance company or maybe even choice of glossy HMOs brochure, they want choice of hospital and choice of doctor. That is what Medicare has given seniors for 38 years.

I hear my friends on the other side of the aisle say Democrats do not have a solution. First of all, you have to tell me what the problem is before we offer the solution because Medicare clearly, except it does not have a prescription drug benefit and it is too expensive for some seniors, and we need to fix that, but other than that, seniors are happy with the way Medicare works. They have full physician choice, and they

have full hospital choice. I love how the other side of the aisle argues for market-based competition. That has certainly worked to keep the price of prescription drugs down. It is good for going to the grocery store and buying a new stereo, but it does not seem to be working for prescription drugs or HMOs.

Seniors would choose an HMO over traditional Medicare if traditional Medicare were funded as well as it should be, I do not think so. But what I think about this, Mr. Speaker, what I think about the Republican efforts to privatize Medicare and turn it into a voucher system to change, as the gentleman from California (Mr. THOMAS), the leading Republican expert in this Congress on Medicare says, to change, to end Medicare as we know it.

When I think about that, it dawns on me what the Republicans want to do. They have never, Republicans have never really appreciated and liked Medicare. In 1965 when Medicare was passed, only 11 Republicans in this whole body and the other body voted for it: Then-Congressman Bob Dole voted no, then-Congressman Gerald Ford voted no, then-Senator Strom Thurmond voted no, then-Congressman Donald Rumsfeld voted no. Republicans did not want to create Medicare.

Then many years later, the first time Republicans were in control of this body, the first thing Speaker Gingrich did, the first time they were in the majority, the first thing he tried to do was cut $270 million from Medicare. Why, to give a tax cut to the most privileged people in society, wealthy Americans. They do not like this program. They want to privatize this program. They want to turn Medicare over to private insurance companies, private HMOs, so instead of choice of physician and hospital, you will have choice of glossy insurance company brochure, you will have choice of insurance agent, choice of insurance company. That is not the kind of choice senior citizens want.

Mr. Speaker, every time since Mr. Gingrich in 1995 tried to cut Medicare, every other time Republicans have had an ability to do something to try and weaken Medicare, they have tried to do it. President Bush said in a State of the Union speech, he said if you want to get prescription drug coverage, you have to get out of Medicare and go into a private HMO to get it.

The Democrats simply want Medicare prescription drug coverage to be done through traditional Medicare, not turned over to insurance companies. When you look at what Republicans think about Medicare, the lack of support in 1965, the lack of support in 1993, the lack of support in 1999, the lack of support in 2003, you know the system works, you know the Republicans do not like a government program like that.

Mr. Speaker, I ask for support for the Davis motion to instruct. It makes sense. We want to preserve and protect Medicare, not privatize this system and turn it over to the insurance industry which just happens to give millions and millions of dollars to President Bush and to Republican candidates.

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

Mr. Speaker, first I would like to call to the attention of the other side of the aisle, in H.R. 1 on page 260, line 18, in very bold print it says, ''No change in Medicare's defined benefit package. Nothing in this part or the amendments made by this part shall be construed as changing the entitlement to defined benefits under parts A and B of the act.''

□ 2030

Again, nothing is going to change the entitlement for seniors to these benefits, as we said earlier in the House bill.

I would also, Mr. Speaker, at this time like to point out, the gentleman from Ohio says that Republicans do not like Medicare. It is interesting that we on the Republican side are the only ones, once we took majority in this House, who put preventive benefits into the Medicare package. We now have as current law colorectal cancer screening which seniors are entitled to, mammograms, pap smears, prostate screening. In the current bill that we have before us that is in the conference committee, there is an initial physical that will be offered to seniors. There is screening for diabetes, screening for cardiovascular disease provided to all seniors. All seniors. That is what the bill provides for.

As the gentleman also knows, there has been much discussion and much work on the part of the gentlewoman from Connecticut (Mrs. JOHNSON) in the area of chronic disease management. Together with these screening provisions and these benefits that are going to be offered to seniors, we will be able to address some of the potential for these diseases early on, thus saving an awful lot of money and lengthening seniors' lives. I find it hard to even digest the gentleman's suggestion that Republicans do not like Medicare.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I listened to what the gentleman said about the benefits. Surely we have all worked on a bipartisan basis to increase the benefit package. But the bottom line is it is the quality of care that suffers. We know that our seniors, many of them do not like to have to join an HMO where they are not necessarily provided with certain procedures. HMOs routinely deny seniors certain procedures, certain operations.

Clearly they are forced to have certain doctors and are limited in terms of their choice of doctors and hospitals. So when the gentleman says they are going to have a benefit package, sure they have the same benefit package, but that does not mean they have the same quality of care, it does not mean they can choose their doctor or choose their hospital. They may be denied an operation. They may be denied certain equipment. So do not tell me that just because you are guaranteed a certain benefit package that it does not make a difference when you want to stay in traditional Medicare as opposed to having to join an HMO. There is a big difference.

I just wanted to point out one thing, and I was going to ask my colleague from Ohio about this because he has been a leader on this issue. The gentleman from Virginia talked a lot about saving money, but the one big way that you could save money is if you had some kind of cost controls and you negotiated the prices of prescription drugs. The one thing that Republicans have refused to do as part of this package is to in any way control or limit costs in terms of the price of prescription drugs. I would venture to say to you that if you did not have this clause, you have a noninterference clause that says the Secretary of Health and Human Services or the Medicare administrator cannot negotiate price. We do it with the VA, we do it with the Defense Department, we do it with the military. That is one way of saving on cost. You absolutely refuse to do it. You prohibit it.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. BROWN) because I know that he has often talked about this issue. It is clearly a way to save money.

Mr. BROWN of Ohio. I thank the gentleman from New Jersey for yielding. When you talk about cost savings, you can talk about a lot of things but the greatest opportunity we have to save money for the Medicare program is to put the prescription drug benefit inside Medicare and then use the buying power of 39 million Medicare beneficiaries to bring the price down. That is what the Canadians do. That is what the French and the Germans and the Japanese and the Israelis and the Brits do. They use the buying power of millions of seniors, of millions of citizens in their country to get the price down.

That is why Americans pay two and three and four times the price of prescription drugs that anybody else in the world pays. But probably the reason for that is, again, as the insurance industry, it goes back to who is helping the Republican Party. The drug industry has already given $60 or $70 million to President Bush's campaign and to House Republicans and Senate Republicans. That is why this prescription drug benefit, H.R. 1, and every other House bill that comes to this floor sponsored by the Republican leadership will never deal with the high cost of prescription drugs simply because the drug industry, who frankly is way, way too influential in this body, the drug industry simply will not let my Republican friends bring a bill to floor that will cost them a lot of money.

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

I would just like to respond, number one, the gentleman from New Jersey suggests that the best way that we can control the escalation in cost in health care is essentially for the government to fix the price and for the government to be the player. That is essentially what we have got now in Medicare. We have got a one-size-fits-all government plan determining benchmarks, government determining reimbursement rates. I would just ask the gentleman whether he really believes that we have done anything to really control costs. I am not yielding to him right now. He can respond on his own time. Does he really believe that the costs have come under control and that we are facing a deflationary trend in the cost of health care?

Then I would like to also say that in terms of the accusations that we in some way through passing the House bill are forcing people into HMOs, there is no provision which forces anyone into an HMO. In fact, the bill takes great strides toward creating regional provider networks, so that individual Medicare beneficiaries will have the ability to go and seek care within the network. They can go outside the network. No one is forcing anyone into an HMO, which again goes back to the central point of what we are trying to do and that is to afford seniors a choice. Not everyone wants the same type of health care. And certainly I would suggest that no one wants a Canadian-style health care. No one wants to see a nationalized health care. It is almost like the other side calls for Hillary-care. No one wants that.

As far as the gentleman from Ohio in his discussion on the pharmaceutical end, I thought that the motion to instruct on the part of the gentleman from Florida related to part C, not part D.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield myself 4 minutes.

I would like to briefly point out some of the things that clearly are not a part of this debate and then focus on some of the things on which there is some agreement here. This is not about nationalizing the health care system. The statement was made earlier that I am against market-based competition. Speaking simply for myself, I am not. That is not the issue here tonight. The issue is how do we answer the question to a Medicare beneficiary who has some health issues, who has been rejected by a private plan, how is she or he going to find a way to pay their bills at the end of the week, at the end of the month when the Medicare dollars that they receive now run out. That is the question.

The issue has been presented tonight as to whether we are against choice. I do not think it is whether we are against choice; it is whether what is being presented here is a false choice. I think we can agree that if you are a perfectly healthy Medicare beneficiary, this private plan may work for you. But if you are not, if you have reached 65 and you have had a history of some health problems or you are going to be experiencing them, I believe, as I stated earlier, that the insurance companies across this country will say that we do not choose to insure you; and this bill, and this point has not been refuted by the other side, does not force a private insurance company to accept somebody with health issues who is more expensive who they do not choose to insure because they do not think that person is sufficiently profitable. That private insurance company has a choice. They have a choice to say to that Medicare beneficiary, We do not want you. Instead, you take your voucher and you go off and you take care of your own health care.

It is also important to point out, there has been no disagreement on the other side, no even attempted disagreement as to the fact that the chief actuarial for Medicare has stated that under this premium support provision, that a Medicare beneficiary's premium could increase by as much as 25 percent. This is a fact. This is not in dispute. So notwithstanding these arguments about risk adjusters and blended rates and the bill saying whether it is defined benefit or defined contribution, the fact remains at the end of the day that when a private insurance company turns away somebody with health issues and their premium goes up by as much as 25 percent, that person is left in the cold, that person is left in the dark at the end of the week or at the end of the month when their voucher runs out.

The question remains whether we believe as a Congress, as Democrats, Republicans, as independents, as United States citizens, that it is humane to change Medicare as we know it and leave that person in the cold, in the dark when their voucher runs out. We can look at examples around the country of the Medicare+Choice plan that has been in effect, in my State, Florida, in many States where people who had no health problems enjoyed the benefits of the Medicare+Choice plan. But when as they got older they started to develop health problems and they were turned away by their private plan, thank goodness traditional Medicare was there as a fallback to provide to them the coverage that they had earned through paying a payroll tax, through the copayments and the premiums they paid. Thank goodness traditional Medicare was there. But if this premium support plan is adopted, that person will no longer have that benefit. They will have the voucher instead.

Finally, the gentleman, I think, credibly points out, where is the alternative? I wish I was in a position tonight to offer the alternative. I am forced only to offer a motion to instruct to remove parts of the bill, not to add them. This motion is offered in an attempt to take this very destructive issue off the table so we can get to what we are here today which is to create a reliable, affordable Medicare prescription drug benefit.

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

Mr. CANTOR. Mr. Speaker, I yield myself such time as I may consume. I just want to respond to the gentleman's remarks about discriminating against seniors and thereby denying them access. I think the gentleman will agree, again we are talking about facts, that current law already provides that under Medicare there can be no discrimination based upon age or based upon one's health. And in this bill there is a requirement that the plans that participate and opt to participate in the Medicare program must have uniform pricing and uniform premiums. There are safeguards. And so all this doomsday prediction that the gentleman offers is not going to occur because there are safeguards provided in the bill for that.

I would also like to point out to the gentleman that studies have shown that the poor that are existing now under the Medicare program, they by far are opting for the Medicare+Choice plans versus the standard Medicare program because they are, frankly, more affordable. Again, this is the marketplace at work. I think it brings us back full circle to the fundamental difference between the parties here. We believe that seniors are individuals and they deserve to have a choice and we should bring in the same type of choice that we all have as Members of Congress in the FEHBP, that seniors should also have that and with the safeguards that we have spoken about, seniors can have that choice just as we do, and not be suffering under a one-size-fits-all government-run program that, frankly, is going to run out of money. So we have got to do something.

The gentleman says he is only in a position to offer a motion to instruct. I have heard no solutions being offered by the gentleman or any of the speakers on the other side of the aisle other than some notion of recreating Hillary-care.

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

Mr. DAVIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

I think we are getting closer to the facts here. This is about choice. This is about whether the beneficiary under current law can fall back on the traditional Medicare program. There has been no dispute that under this bill as the chief actuarial, the President's chief actuarial, has said, the premiums can increase by up to 25 percent. Nobody is disputing that. And nobody is trying to answer the question, what happens to that Medicare beneficiary whose premium increases by up to 25 percent who runs out of money under the voucher at the end of the week or at the end of the month.

With respect to solutions, which are not within the scope of the motion to instruct tonight, I think the gentleman should respond to the point that has been made a couple of times here, which is one of the ways to develop a more affordable prescription drug benefit is to give to the Federal Government the authority to negotiate a discount. Just as Secretary Rumsfeld, the Secretary of Defense, negotiates a discount when he buys a helmet or a hammer, just as Sam's Club negotiates discounts for the benefit of all the people we represent, why should the Federal Government not have the ability to negotiate a discount when it purchases prescription drugs for the benefit of our Medicare beneficiaries?

□ 2045

The answer in this bill is that this bill specifically prohibits the Secretary of HHS from negotiating any discount in the price of prescription drugs, and that is an unforgivable travesty in terms of our obligations to defend the taxpayers and the Medicare beneficiaries of this country who are paying horrific prices.

I would be happy to yield to the gentleman if he would care to defend the provision in this bill that specifically prohibits the Federal Government from negotiating any discount whatsoever in the price of prescription drugs.

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

Mr. DAVIS of Florida. I yield to the gentleman from Virginia.

Mr. CANTOR. Mr. Speaker, I will be glad to respond to the question, because, again, we are talking about the philosophy. Do you want the government out there fixing prices? Do you want the government out there coming up with the formulary? That is what you are talking about. Many States across the country do that, they come up with a formulary, and we all know how difficult it is to get anything through this Congress.

So as the drug industry comes up with more and more miraculous lifesaving and life-lengthening drugs, we will be stuck and mired in the bureaucratic process of approving a change in the formulary, so it will almost be impossible for that to happen.

Mr. DAVIS of Florida. Mr. Speaker, reclaiming my time, does the gentleman further believe the Secretary of Defense should not have the authority to negotiate any discounts when he is buying a helmet or a hammer, or is that a price control also?

I am happy to yield further to the gentleman to respond to that.

Mr. CANTOR. Again, I think that the Secretary of Defense and any other agency that negotiates on behalf of its agencies, its employees, has a mission. But we are talking about negotiating on behalf of the public and people out there that have different needs.

We are a market-based country. We are a country where people have the option to choose for themselves. We are not living in a country where I think, one would think, the government can decide which medicine, which prescription drugs you ought to have and which you ought not to have.

Mr. DAVIS of Florida. Mr. Speaker, reclaiming my time, I find it incredulous that the gentleman believes that the Federal Government should not take advantage of negotiating some discount, just as Sam's Club does to buy discounts on behalf of its customers, or just as the Secretary of Defense does. This is a disservice to the taxpayers of this country and the Medicare beneficiaries.

This is the type of debate we should be having in this body, as to how to develop an affordable Medicare benefit.

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

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

Mr. Speaker, just to follow up on that, again, it goes to the fundamental difference between the two parties here, whether you think the government ought to be in there for you negotiating prices, or whether you ought to let the private sector and the plans that have an incentive to attract customers and attract seniors into the plan to make their formularies more attractive, if we are talking about prescription drugs, to give the market the incentive to do that for seniors. Let the seniors choose which plan is better for them, because if you have got the government doing it, there will be no choice. There will be a one-size-fits-all, government-run plan.

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

The SPEAKER pro tempore (Mr. NUNES). The gentleman from Florida (Mr. DAVIS) has the right to close and has 1½ minutes remaining, and the gentleman from Virginia (Mr. CANTOR) has 15 minutes remaining.

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

Mr. Speaker, I would say to the gentleman and the Members on the other side, I have enjoyed the debate. I think it is always a healthy experience for this body and the country to have an active discussion on very important issues.

I happen to think that the Medicare reform bill that we hopefully will be voting on soon is probably one of the most important things we will do in our careers in this body, because it does affect so many people. It impacts them in an area of their lives in which everybody is concerned, and that is health care. So I appreciate the debate.

I would just like to underscore, once again, the bill that we have in place and that we have passed out of this body is a bill designed to shore up the failing actuarial numbers in Medicare and the fact that we are on a road to ultimate bankruptcy of the system if we do not do something to reform it and if we do not do something to allow seniors to continue to enjoy that benefit.

The way that this House has spoken, the way we will do that, hopefully, is through inviting in competition from the private sector, allowing seniors to choose health plans that best fit their own family and their own health care needs.

We also, as we have discussed, have in this H.R. 1 provisions which protect seniors and which ensure that they will have access to quality health care, and, at the same time, protection that there is never going to be any denying of the entitlement of Medicare to seniors.

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

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

Mr. Speaker, I think this has been a civil, productive debate as well. The purpose of the premium support provision is to try to reduce the cost of the Medicare program to the benefit of Medicare beneficiaries and the taxpayers, and that goal is a worthy goal.

We have heard debate tonight about one of the ways that can be achieved, by trying to negotiate discounts in terms of the price of prescription drugs. I think the argument on the other side is a philosophical argument, that somehow the government should not be involved in that, even though it works for the Secretary of Defense, it works for the VA, in a fashion that no one is questioning.

So where the debate ultimately ends up tonight is should we reduce the cost of Medicare on the back of that Medicare beneficiary who has been rejected by a private health care plan, by giving them a voucher that will not get them through the end of the week or the end of the month?

I think the answer is clearly no, and there has yet to be a single Member of Congress who has stood on the floor of this House and tried to squarely confront that question. And to say to that Medicare beneficiary, this is why you are on your own, this is why, as the chief actuarial of the Federal Government has said, your premium is going up 25 percent, you are on your own, there is not a humane acceptable answer to that.

This is not a Democrat or Republican proposition. This is about humanity. This is about whether Medicare as we know it is going to continue to address that person at a very difficult time in their life. We owe our seniors a choice, but not a false choice. We should respect them by being honest about what this bill does.

Mr. Speaker, I would urge adoption of the motion to instruct to reject the premium support provision of this bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida (Mr. DAVIS).

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

Mr. DAVIS of Florida. 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, further proceedings on this question will be postponed.

CONTINUATION OF EMERGENCY POSED BY PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–138)

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

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the emergency posed by the proliferation of weapons of mass destruction and their delivery systems declared by Executive Order 12938 on November 14, 1994, as amended, is to continue in effect beyond November 14, 2003. The most recent notice continuing this emergency was signed on November 6, 2002, and published in the *Federal Register* on November 12, 2002 (67 Fed. Reg. 68493).

Because the proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have determined the national emergency previously declared must continue in effect beyond November 14, 2003.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 29, 2003.*

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–139)

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

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice, stating the Sudan emergency is to continue in effect beyond November 3, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on October 31, 2002 (67 Fed. Reg. 66525).

The crisis between the United States and Sudan constituted by the actions and policies of the Government of Sudan that led to the declaration of a national emergency on November 3, 1997, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. Therefore, I have determined it is necessary to continue the national emergency declared with respect to Sudan and maintain in force the comprehensive sanctions against Sudan to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 29, 2003.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. BURGESS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

LETTERS FROM CONSTITUENTS

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, 1838, former President, then-Congressman, John Quincy Adams came to the House floor because he was prohibited, as were the other Members of Congress, from debating the most important issue of the day.

Conservative leadership in the House of Representatives between 1838 and 1842 had passed a rule prohibiting and banning the discussion of slavery on the floor of the House of Representatives. Then-Congressman John Quincy Adams came to the floor, day after day, week after week, sharing letters from his constituents, many of them from women who could not vote in those days, sharing letters from his constituents asking, pleading with the House, that they debate the issue of slavery and that they ban and wipe away that blot on American history.

In some ways similarly today, Members of this House have not had the opportunity to debate the issues of Iraq, of keeping our troops safe in Iraq, of providing and supplying our troops, of the corruption and the incompetence in the Pentagon and in the Bush administration in supplying the troops and turning over so many public dollars to private contractors.

As a result, I would like to share some of those concerns. Since we are not debating the issues on the House floor, I would like share some of the concerns with letters from my constituents.

Sabba, from Richfield, Ohio, writes, ''The Bush administration had no concrete evidence confirming the weapons of mass destruction in Iraq. Bush completely disregarded the United Nations' dissenting opinion.''

You can see in letter after letter I am receiving in Ohio, and my colleagues, the gentleman from Ohio (Mr. STRICKLAND), the gentleman from Ohio (Mr. RYAN), the gentleman from Ohio (Mr. KUCINICH), the gentlewoman from Ohio (Ms. KAPTUR), the gentlewoman from Ohio (Ms. JONES) and Members from both parties in Ohio are receiving from all over the country, people's concerns that the President and the administration may not have leveled with the American people about all of these issues.

□ 2100

Margaret of Strongsville writes, ''Please don't throw money into a vast pit which will affect us all for another several generations.''

Margaret is referring to the $1 billion a week that the President is already spending in Iraq, a third of that money unaccounted for, going to private contractors, many of them the President's friends, and that is where she and so many others believe there is so much waste and so much pork.

Marvin of Akron, Ohio, says, ''The request must be carefully scrutinized and unnecessary expenditures removed.''

Thomas of Akron, Ohio, writes, ''How much debt is acceptable?''

What he is writing about is he understands, as most Members of this House do, I think, on both sides of the aisle, that the $87 billion is put on a government credit card. We are going to spend our children's and our grandchildren's money, in large part, because Congress has voted a tax cut for the wealthiest Americans. The average millionaire in this country, as Thomas knows from his letter, the average millionaire in this country gets a $93,000 tax cut. Half of Ohioans get no tax cut at all. Yet, we are not going to rescind that tax cut for the richest of Americans, for the American millionaires

that get $93,000; we are going to put this war on a credit card so that that $87 billion plus the $80 billion that Congress has already spent, plus the tens of billions more that we know President Bush will ask for, will be paid for by our children and our grandchildren.

Crystal of Akron writes, ''Please think long and hard before you spend $87 billion. To what end?'' We hear that over and over and over.

When I read these letters, Mr. Speaker, one thing also that comes out is people understand that of this $1 billion a week we are spending in Iraq, one-third of it goes to private contractors. Most of those private contracts are unbid contracts, and most of that money is going to friends of the President. Halliburton, Bechtel, corporation after corporation, if you look at FEC reports, you see those corporations, the employees of those corporations are giving hundreds of thousands and, in some cases, millions of dollars to the President's campaign. And to make that even worse, Mr. Speaker, Halliburton, the company where the former CEO is now the Vice President of the United States, DICK CHENEY, Halliburton has received over $2 billion in government contracts, over $1 billion in unbid, unaccounted for contracts; and Halliburton is still paying Vice President CHENEY, still paying Vice President CHENEY $13,400 a month. Vice President CHENEY is receiving $13,000, more than $13,000 a month, $160,000 a year, from this company that gets unbid contracts of taxpayer dollars to fix Iraq, to supply the troops, to do whatever that Halliburton is supposedly doing.

Halliburton's profits have gone sky high while they have the go on these contracts, while they have paid the Vice President of the United States. It is just amazing to me. All of us in this body should be incredulous that we are spending this kind of money, giving this money to a company like Halliburton, with unbid contracts, literally hundreds of millions of dollars a week, and then this company turns around and pays Vice President CHENEY $13,000 a month.

Mr. Speaker, I close with the last letter, Anthony from Akron, Ohio: ''Bush needs to face up to these facts. I am 16 years old. I myself feel that growing up in America will now be tougher because of all of these things that are going on.''

Mr. Speaker, end the corruption, end the incompetence of the Bush administration in Iraq, do it right. Fix Iraq the right way. Stop the corruption. Stop the incompetence.

WASHINGTON WASTE WATCHERS

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

Mr. HENSARLING. Mr. Speaker, I rise again this week as cofounder of the Washington Waste Watchers, a Republican effort designed to bring the disinfectant of sunshine into the shadowy corners of the wasteful Washington bureaucracy.

Last week, the Treasury Department reported the current fiscal year deficit, excluding Social Security receipts, closed at $535 billion, one of the largest deficits ever. Faced with this growing budget deficit and obvious unparalleled homeland security needs, surely we must do something.

Now, Democrats say the only way to cut the deficit is to yet again raise taxes on the American family. I disagree. We do have a historically large deficit, but not because the American people are taxed too little. It is because Washington spends too much.

Since 1998, just 5 years ago, Federal spending has increased 22 percent and the amount the Federal Government spends per household has increased from $16,000 to $21,000 per household. This is a 5-year spending binge, the likes of which we have not seen since World War II. But the binge did not start just yesterday. The Federal budget has been growing seven times faster than the family budget for the last 2 generations. This assault on the family budget is unfair, unsustainable, and unconscionable.

Mr. Speaker, much of the spending in Washington is also pure waste, fraud, and abuse. And by attacking it every day, we can begin to reduce this deficit. That is why the Washington Waste Watchers are here.

Mr. Speaker, tonight, let us just look at a few questionable examples of spending in one Federal agency, the National Institutes of Health, or NIH. NIH is funding a 6-year grant to study American Indian and native Alaskan lesbian-gay, bisexual, transgender, and ''two-spirited'' individuals. This study is estimated to cost the American taxpayer over $3 million. Part of the purpose of this study is to ''facilitate future goals of designing and evaluating interventions to address the urgent needs of two spirits.''

We are fighting a war on terrorism and this is urgent? And, even worse, Democrats want to raise our taxes to pay for more of this?

NIH is also paying approximately $276,000 for a 4-year study on the sexual behavior of 80- and 90-year-old men. What are we supposed to do with this information? NIH has also handed out over $107,000 to fund a research on mediums or, in their words, ''individuals who regularly enter altered states of consciousness as part of a religious ritual.'' Combined, that is $383,000 of the American people's hard-earned tax dollars. And Democrats want to raise our taxes to pay for more of this?

NIH is also funding studies on reactions to pornography, sexual risk-taking, and they also chipped in for a conference on sexual arousal, all of which will end up costing the American taxpayer an estimated $650,000 over 2 years. Mr. Speaker, $650,000, and Democrats want to raise our taxes to pay for more of this?

They are spending an estimated $1.2 million over 6 years on Chinese panda research, and we have no native pandas in America. They are also spending $4.6 million on sexologists.

Mr. Speaker, the few items I just mentioned are from just one government agency, and it will waste over $10 million of the American taxpayers' money.

Now, tonight I wish I could say these were unique examples but, unfortunately, this type of waste has been going on in this city for years and years. Now, Mr. Speaker, I certainly support scientific research, and NIH has done some very great work, especially in the area of cancer research. But where are our priorities? Where is our common sense? Where is the accountability? Does anybody really believe at a time of historically large deficits, with enormous homeland security needs, that we need to be spending over $10 million of hard-earned American family money on sexologists and Chinese panda research? If these are the grants that are approved by NIH, I would hate to see the ones they turn down.

Mr. Speaker, there are so many different ways that we can save money in Washington without cutting any needed services and without raising taxes on hard-working Americans. Because when it comes to funding programs in Washington, it is not how much money Washington spends; it is how Washington spends the money.

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

(Mr. DAVIS of Illinois 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 gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

(Ms. MILLENDER-MCDONALD 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 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 Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

(Mr. MCDERMOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PASS ENERGY BILL NOW

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

Mr. TERRY. Mr. Speaker, I think back, somewhat romantically, to when I turned 16, got my driver's license, and my dad let me drive that 1970 rusted-out brown station wagon to Northwest High School in Omaha, Nebraska. I have a not-so-romantic memory of that 1970 station wagon, waiting in line on Fort Street in a line about two blocks long to get gas, and wondering if those who remember that second oil crisis in the late 1970s, around 1977, if you share this memory too of waiting in lines blocks long to pull up to the gas pump, wondering if when you get up there, there is not going to be that white piece of notebook paper up there saying ''out of gas.'' And gas prices doubled and tripled.

Well, since those days in the 1970s, we were about 35 percent dependent on foreign oil; and as we stand here tonight in this Chamber, we are about 58 percent dependent on foreign oil for our energy needs in this country. When we look at those last 20 and 30 years and we see how our economy is growing and has grown, mirrored to that is our energy needs and use in this country. Our energy sector represents 300 billion, a 300 billion piece of the American economy, and it is that that powers America and powers our economy.

Now, I remembered or thought back to that oil crisis in the late 1970s, but there are a lot of people that just have to remember back to last year when oil prices reached record highs of $40 per barrel. In Omaha, Nebraska, we were seeing gas stations with $2-plus per gallon cost for gasoline.

Now, a lot of people that rely on natural gas to heat their homes in the winter saw a nearly 60 percent increase in natural gas. For electrical generation, most peaking plants and a lot of new generation plants rely on natural gas, so that 60 percent increase in natural gas is certainly passed on to the consumers.

Here is just a couple of interesting facts about what our future holds in America and how we are going to power ourselves and our economy. The U.S. energy use has increased by 33 percent over those last 30 years that I mentioned, while domestic energy production has increased 12 percent. America now imports, as I said, 58 percent, and that is expected to grow as high as 75 percent by 2010 to 2015. The Department of Energy expects that by the year 2020, the U.S. energy consumption will increase 50 percent for natural gas, 45 percent for electricity, 35 percent for petroleum, and 22 percent for coal.

Mr. Speaker, we face an incredibly important issue for this country. There is not a person listening here that does not understand the impact of energy on how we do business in America, how we work with our families in our homes, but also how it impacts foreign policy decisions. I think there is probably a lot of us in this House that would love to diminish our dependence on Saudi Arabian oil. Just our imaginations can run wild with how that may free a great deal of our foreign policy. But yet, as I stand here tonight, we have a problem in the United States Congress between two chairmen whose bickering refuses to pass out of conference an energy bill.

See, back in June and July, this House did its business and passed a very comprehensive energy bill that I thought dealt appropriately with our current needs and future demands. Likewise, the Senate had difficulty passing their bill and took up last session's bill, put it on the floor to get it to conference. And I am very disturbed that we cannot get that bill accomplished. I certainly encourage our House leadership to take control of that conference, the Senate leadership to take control of that conference and get it done. This is too important for our Nation to allow pettiness to deteriorate progress to this point so that we cannot pass a bill.

□ 2115

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

(Ms. WOOLSEY 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 Pennsylvania (Mr. SHUSTER) is recognized for 5 minutes.

(Mr. SHUSTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Ms. CORRINE BROWN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

(Mrs. MALONEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. STRICKLAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE DISMANTLEMENT OF OUR MANUFACTURING AND ECONOMIC BASE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 30 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, this evening I would like to address the issue of the economy in our country and the dismantling of our manufacturing and economic base.

President Bush owns the worst record of job creation since the Presidency of Herbert Hoover. More than 3.2 million Americans have lost their jobs since this President was installed in office.

The Bush administration's destruction of jobs across our country indeed has spread like wildfire. From Massachusetts to the Carolinas, from the Midwest to California. Now, they have even tried to take away our overtime pay. Isn't enough enough?

Accelerating job loss under this administration is the norm, not the exception. Indeed, in less than 3 years the Republicans have lost 3.2 million jobs and at the same time added $3.3 trillion to our national debt. Today 9 million of our citizens are out of work and cannot find a job.

The gentlewoman from Oregon (Ms. HOOLEY) has a discharge petition in this House, so that we can extend unemployment benefits to those who simply cannot find work inside the boundaries of this country. That bill should not require a discharge petition. It should come to this floor immediately because it is necessary for those who will lose their benefits by the end of this year.

President Bush has the worst record of job creation, actually he has created no new net jobs, of any President since Herbert Hoover during the great depression. Every President since World War II has created jobs but for this President.

This year, the United States is going to lose more manufacturing jobs. It will mark job loss in the manufacturing sector every single year of his Presidency. And if you look at the accelerating loss of manufacturing jobs, this has never happened since World War II in our country. We have lost 2.5 million manufacturing jobs.

The Great Lakes States are being hollowed out in the steel industry, in

the machine tool industry, in the automotive parts industry. The Carolinas are being hollowed out in furniture, in textiles. Massachusetts has suffered enormously, as much as any other State in our Union.

There seems to be no end to the job killing across our country. More bad news on job losses hit California today. And more people are looking longer to find work. Mr. Speaker, 5 million people are working part time because they cannot find a full-time job.

So the Bush administration's record on jobs is abysmal. But the rich are getting richer thanks to President Bush's massive tax breaks for millionaires. But half of America's families get nothing from his tax package.

And the middle class is getting squeezed as usual. In return for meager tax cuts, they are facing enormous increases in local and State property taxes, gas taxes, special levies. And tuition rate increases for college students are going up across our country and going off the charts. In Ohio, for instance, our State has raised tuition 40 percent. It has recently suspended new entrants into what is called the Ohio Tuition Tax Authority, the 529 program, that allows parents to save for their children's college education. They do not want any more people in the program because there is not any money for it.

Our State is closing libraries on Sundays and forcing the burden of paying for libraries not on the general tax duplicate for the whole State, but they are pushing it down on property taxes.

So the middle class has had a net increase in taxes since this President took office. The middle class is getting squeezed as State and local governments rack up record levels of debt, cut important services, and raise taxes and user fees.

This Congress just approved an enormous amount of money for Iraq and yet not a single dime was approved for our States and localities that are running record deficits and are being forced to cut services. More pressure on our families, more pressure on our workers.

Listen to these numbers. Nine million Americans out of work, the most in a decade. Almost 4 million Americans, 4 million, out of unemployment compensation. That is 13 million Americans right there. 151,800 manufacturing jobs lost in Ohio under this President's watch. 145,300 manufacturing jobs lost in North Carolina. 297,700 manufacturing jobs lost in California. 215,300 more unemployed people in New York since Bush took office.

We witness daily the real and deepening crisis in manufacturing. Between January 1998 and August of 2003, U.S. manufacturing employment dropped by 3 million persons. During the Bush years, the pace of job washout has accelerated dramatically. In fact, manufacturing share of our Gross Domestic Product fell below 14 percent last year. As the Economic Policy Institute notes, the manufacturing sector occupies a special place in U.S. economy because productivity growth in manufacturing has historically outpaced the rest of our economy, driving real increases in our standard of living. We know that well in our part of the country, the Midwest.

Good paying jobs in factories with good benefits are the key to our great middle class, the key to achieving the American dream, to buying a home, to putting your kids through college. Manufacturing fosters supply and demand growth, providing the basis for durable economic growth for the wider economy. But total employment in manufacturing in the United States used to be about 18 million workers, ranging between 16.5 and 19.5 million. However, that has plummeted to 14.6 million workers as of August of this year.

This record low level of manufacturing employment in our country coincides with the largest trade deficits our country has ever recorded. For the first time in almost 40 years, despite an increasing population, we have record low employment in manufacturing. The net result is a lower standard of living, greater economic pressure on our families, a fracturing of communities, a diminished tax base for schools, local governments and angry citizens, among other things.

The jobs did not just disappear like the horse and buggy. They have gone to other countries. Americans are still driving cars, but American workers enjoy less of a market share compared to foreign companies. Americans still use refrigerators, but they are more often made in Mexico or China, rather than Iowa.

I present this particular chart this evening on the U.S. trade deficit, the balance, because every single year it has gotten worse and worse and worse until this past year of 2002 and this year of 2003 we are hovering at half a trillion dollars in more imports coming into our country than exports going out.

And just in that one year alone, that level of trade deficit translates into an additional 1 million lost jobs. Because for every billion dollars of trade deficit, of more imports coming in here than exports going out, you lose 20,000 jobs. So multiply $500 billion by 20,000 and what do you come out with? An additional million lost jobs.

We have never hemorrhaged jobs and income to this extent. Americans still use steel for bridges and buildings and vehicles and appliances, but our steel industry is under siege from dumped steel and foreign competition.

Americans still eat food, but more and more of our food is coming from foreign countries as farmers across this country bite the dust. And the average age of farmers in our Nation is now 58 years of age. Americans still use telephones and electronic equipment. They still watch television, but those products are now made in Mexico or Asia. Our demand has not changed, in fact, it is greater than ever, but the problem is on the supply side. Our factories have lost market share, which translates into fewer orders, which translates into fewer jobs, which translates into greater unemployment and the dismantling of our mighty industrial and agriculture economy.

How long can this go on? Can America regain its competitive edge? The staggering rise in this U.S. trade deficit, particularly with China, claims millions and millions of more jobs. And these are the figures for China. The U.S. trade deficit with China alone this year will rise to over $103 billion. That means 2 million lost jobs just related to China. And it is no surprise if you think about your own experience when you go to the store, look at the tag. Where is it from? That job is being created somewhere else at slave-level wages, but it certainly is not being created in this country. And that creates a siphoning off of income by our citizens somewhere else.

The staggering rise in the U.S. trade deficit with China, I mean look at this, it is absolutely gigantic, never experienced before in our Nation's history, is claiming millions and millions of more jobs every year. It is a product of bad deals, bad deals, bad trade deals such as NAFTA and the World Trade Organization and most favored nation status for China, giveaways on the part of the U.S. Congress, and the Bush and Clinton administrations.

Selling American workers and our companies down the river has been a bipartisan effort by some here in Washington, but the bill is coming due. Between the first quarter of 1995 and the second quarter of 2003, the overall trade deficit skyrocketed to over $411 billion, dominated by over $408 billion in the deficit in manufactured goods.

Since 2000, the year Congress approved permanent normal trade relations with China, a communist country, the largest U.S. trade deficit in American history has been amassed with China. The deficit with China exceeded $100 billion last year alone, and this year shows no sign of slowing.

The manufacturing trade deficit, according to the Economic Policy Institute, alone for all of the nations from which we are importing goods reached $491 billion by the end of 2002. The Bush administration says it wants to solve the problem with China alone by manipulating currency rates, and I can tell them it will not work. Because it never worked with Japan.

I can remember back in the 1980s when they patted me on the head in a very patronizing way as a young Member of Congress and they said, Marcy, do not worry about the trade deficit with Japan. When the yen-dollar relationship reaches maybe 90 yen to the dollar, everything will work out. You know what? It never did. It did not matter whether the yen was 90 to the dollar or 230 to the dollar. When you have a controlled economy and you

prohibit imports, and you have Keiretsu supplier chains into which other country's companies cannot bid, you will never balance the trade accounts of this country because other nations do not play by the same rules.

And so Americans still buy cars and trucks, and still drive cars and trucks, and still buy refrigerators and stoves, and televisions and computers and DVD players, and still consume vastly more than any other people in the world, but we are losing manufacturing jobs at a record pace. And it is dragging down our entire economy. Have you noticed?

Mr. Speaker, this is not just a regional issue. It is not just about the Midwest, although we in the Midwest understand the importance of manufacturing to our economy. Earlier this week on Capitol Hill, a Republican polster told a briefing that the jobs in the Midwest are going and they are not coming back, and he explicitly mentioned Ohio. I refuse to accept that. And I know my dear colleague, the gentleman from Ohio (Mr. BROWN) refuses to accept that because we know we cannot withstand the loss of millions more of our manufacturing jobs and this type of hemorrhage, and turn this republic over to our children and grandchildren in better condition that we found it.

Mr. Speaker, I have some comments I want to make about when these countries get these dollars from the United States, what they end up doing with our dollars, but I would be very happy to yield to my colleague, the gentleman from Ohio (Mr. BROWN) who fought with us so valiantly in our efforts to amend NAFTA before its passage and to deny this kind of trade access to China without getting something on the other end.

□ 2130

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman, my fellow Ohioan, with whom I share one county, Lorraine County. I appreciate the good work the gentlewoman does there and throughout our State and especially the leadership that the gentlewoman from Ohio (Ms. KAPTUR) has shown. People that watch C–SPAN and people who have followed these issues know that the gentlewoman from Toledo has done more for justice and trade agreements than perhaps any Member of this body. Way before my time when we started working together against NAFTA in 1993, she was doing this for the decade before that also. So I thank her for that.

The gentlewoman has done a particularly good job in talking about the big picture. I want to talk a bit about Ohio and what it means in a State of our size, the seventh biggest State in the country, I believe, and a State that has been hit, not quite the hardest but darn near the hardest of any State in the country in terms of lost manufacturing jobs. One out of six manufacturing jobs in Ohio is gone. That means for every six people in manufacturing, the day that George Bush put up his right hand and took the oath of office, one out of those six people across my State, our State, has lost his or her job in manufacturing.

Those are the best-paying industrial jobs. They are the jobs that send kids to college. They are the jobs that buy homes. They are the jobs that buy cars. They are the jobs that put food on the table.

At the same time, we have seen this economy managed by President Bush go from a major budget surplus to now a $500 billion budget deficit. And that is not counting the $87 billion that the President is pushing through the Congress to spend on Iraq, where one-third of that money goes to private contractors and much of that money goes to unbid contracts to the President's friends. Halliburton, the largest contractor in Iraq, is still paying Vice President CHENEY $13,000 a month. It boggles the mind. While Americans are suffering, jobs are lost, the manufacturing basis is worst than decimated, literally, that we are helping to enrich a company with private contracts where it is still paying the Vice President of the United States $13,000 a month.

When you talk about the trade deficit the gentlewoman mentioned, we now have a $450 billion-a-year trade deficit. The trade deficit for August of this year was greater than the trade deficit for the entire year of 1992. In 1992 we had a trade deficit, if I recall, of about $39 billion. The trade deficit of a couple of months ago, 1 month was $42 billion.

As the gentlewoman said, every billion dollars in a trade deficit translates into 20,000 lost jobs. So when we are talking about a trade deficit of $40 billion, $45 billion a month, you are talking about hundreds of thousands, millions of jobs certainly in the course of a year, we are losing in manufacturing; $100 million trade deficit with China in about a decade ago. Now we have a $100 billion trade deficit with China, a thousand times greater than just about a decade ago.

President Bush's answer is always more tax cuts for the most privileged. The average millionaire in this country gets a $90,000 tax cut. Half of Ohioans got zero dollars in tax cuts; $90,000 for millionaires, zero for half of Ohioans, and only a few dollars for most of the rest of Ohioans, while one out of six Ohioans who worked in manufacturing has lost his or her job.

The President's answer, tax breaks for the most privileged and more trade agreements. The President is now in the middle, as the gentlewoman knows, working to negotiate an expansion of NAFTA. He wants to expand NAFTA to Central America, something called CAFTA, the Central America Free Trade Agreement. He then wants to expands CAFTA and NAFTA to the FTAA, Free Trade Act of the Americas. That will double the size of NAFTA. It will quadruple the number of low-income workers in the free trade area, the Western Hemisphere area.

What does that mean? That means a continued hemorrhaging of jobs. We know we have lost in our State, I believe the gentlewoman said, 150,000 manufacturing jobs. We have lost 150,000 manufacturing jobs in Ohio. It is not like a normal recession that this President helped to cause. It is not a normal recession where people get their jobs back after 6 months or a year. These jobs are lost. They are in Mexico. They are in China. They are in these places that the gentlewoman was pointing out.

When the President's answer to every economic problem is more tax cuts to the most privileged on the one hand, and more trade agreements that hemorrhage jobs to Mexico and China on the other, it troubles me to think what our future is.

It is so clear what we need to do in terms of restoring American manufacturing, but it is so wrong what the President has decided to do. More tax cuts for millionaires, $90,000 on the average; more trade agreements, expanding NAFTA to Latin America and continuing to hemorrhage thousands, hundreds of thousands in the case of our State, manufacturing jobs south of the border, east of the border, across the ocean or wherever.

Ms. KAPTUR. Mr. Speaker, I want to thank the gentleman for raising several critical issues this evening, including the disparity between those Americans who are losing their jobs and certainly very privileged people in this country including the Vice President of this Nation.

Mr. Speaker, I want to follow up on what the gentleman was saying about the compensation that the Vice President receives from his former corporation, Halliburton Corporation. The gentleman is absolutely correct in what he says; and in addition to the figures he has placed on the record, the Congressional Research Service issued a report that the other body requested, including not just the funds that the gentleman mentioned for the Vice President, but also deferred salary and stock options, 433,333 of them to be exact, and Halliburton stock owned by the Vice President. And here is what these benefits pay him.

In deferred salary, according to this report, in 2001 Vice President CHENEY received $205,298 from Halliburton while he is serving as Vice President and permitting no-bid contracts to go from the Department of Defense to this Vice President. In 2002 he received $162,392; and similar payments are to be made in 2003, 2004, and 2005. So there is an ongoing corporate obligation paid to him in company funds.

In addition, he has these stock options, 433,333 of them in three different traunches. The value of those stock options today alone are valued at over $26,674,990. It is not as though he does not have an interest in what happens

to that company. And this is in addition to a $20 million retirement package paid to him by Halliburton after only 5 years of employment that he held with that company and a $1.4 million cash bonus paid to him in Halliburton in 2001, and additional millions of dollars of compensation paid to him while he was employed by the company.

Now, compare that to the people in our country who are losing their jobs and those we are having to fight for here on this floor to get extensions of unemployment benefits. One of the aspects of the job loss in our country and related to the trade deficit with China and with all of the nations is the fact that when these countries, the people in these countries sell us goods, financially our dollars go back to that country and the companies in that country. And it is very interesting what they do with their dollars. First of all, they purchase pieces of us so that the brain of the corporation is no longer located in this country, but rather wherever those companies are located which means that we become a derivative economy.

Secondly, those dollars that end up in the hands of foreign interests are being used to purchase our public debt. And one of the hidden aspects of this horrendous trade deficit that we are racking up is that countries like Japan and China and the Middle Eastern oil kingdoms are buying larger and larger pieces of us. In fact, they now own well over a trillion dollars of our debt on which we are paying them interest.

Is that not a fine how do you do?

According to the latest year for which I have figures, we paid over $85 billion in interest to these foreign creditors to the United States, the largest being Japan. In 2001, we paid her $26.1 billion of our tax money. Those are dollars we did not pay to our citizens. We did not sell savings bonds to our citizens and ask them to pay the interest to them. We paid the interest to Japan, which will not open our markets to their products and continues to exclude our suppliers in their automotive supply chain, but we paid them $26.1 billion.

We paid China and Hong Kong, this was back in 2001, before this deficit was going up as much as it is now. It was horrendous back then, but it is getting worse. We paid China back then over $10 billion, $10 billion. So just China and Japan alone we had over $36.5 billion in interest. That is more money than we put into NASA. In one year NASA's budget is about $14.5 billion. We could run three NASAs for what we are paying just in interest to Japan and China.

Now, to the oil kingdoms we paid over $6.7 billion, $6.7 billion. Could that not put a lot of our young people through college? Could that not educate new doctors for the future for free, for free? We could pay for their tuition and ask them to serve in the underserved areas of this country.

We paid Korea and Taiwan $5.6 billion. So if you total everything up, $85 billion in interest as of 2 years ago to these foreign creditors, people who are buying our debt because we cannot self-finance anymore. The hole of the debt is getting bigger and bigger. We cannot even buy it ourselves. We are pawning it off to foreign interests. Literally, it has gotten so bad that nearly half of the Treasury securities that are sold every year in our country are being purchased by foreign interests.

So the share of foreign ownership of our debt is growing every year. Because when these countries that are responsible for our trade deficit end up getting our dollars, they buy a piece of us. Think about that; $85 billion dollars, we could take care of all the disability compensation for our veterans. We could increase hazard pay for our young men and women in the Armed Forces who are giving their lives every day. We had a measure on the floor last week for $1,500 which was defeated despite our objections. We could triple it.

We could take care of TRICARE for our Guard and Reserve and the families who are part of that system. The Republican leadership will not allow that bill on the floor. We could create a real whole health care system for not just active duty but for our Guard and Reserve across this country.

We could build new water systems all over this country for $85 billion. Only a portion of that would it take to modernize water systems under every city in this country. So the cost of this kind of trade deficit with China, with all of the other countries, the lost jobs here at home, and then the insidious erosion of our own financial independence, because of the transfer of those dollars to others would then essentially weaken us because we end up owing them rather than paying bills when they come due.

Mr. Speaker, in closing this evening I think it is important to place on the record our deep concerns about the Bush administration wanting to expand NAFTA to include all of Latin America. As the gentleman from Ohio (Mr. BROWN) has indicated, if we had a balanced trade account with Mexico and with Canada as a result of NAFTA, would it not make sense to do that? But, in fact, after NAFTA's passage, we went into a gigantic deficit with Mexico, the largest in our history, the same with Canada, which means that we are sucking in imports with these countries when, in fact, they promised us with NAFTA that we would be creating jobs in our country by exporting to those countries. That is not happening. It is working exactly the reverse, both in industry and in agriculture.

Now the Bush administration wants to use that flawed template in order to expand to a larger portion of the hemisphere. In whose interest is that? When the original NAFTA is not working, why would you want to expand it? Why do you not fix it so that we do not continue to hemorrhage more jobs and continue to fritter away our financial independence as a Nation?

CAFTA will be considered here before the end of the year or perhaps before next June, we are not sure; but we ought to think hard about not making the same mistake again and think about how we are go to repair these big holes of deficit that we are building both on the trade front and on the deficit front for our Treasury accounts.

Mr. Speaker, we will have more to say on the condition of the economy of the United States in the days and months ahead; but surely the Bush administration cannot be proud of its record, and surely we need leadership, new leadership here in Washington, to help us get our Nation in a stronger situation for the future generations than we have found it.

MANUFACTURING JOBS LOST: STATE-BY-STATE, SEPTEMBER 2003

State	Manufacturing jobs lost in September	Jobs lost since Jan. 2001
Alabama		39,500
Alaska	3,500	
Arizona		35,700
Arkansas		29,500
California		297,700
Colorado	1,700	38,900
Connecticut	900	33,500
Delaware		3,700
D.C		700
Florida	900	59,200
Georgia	1,100	66,100
Hawaii		1,600
Idaho		6,400
Illinois	1,800	125,800
Indiana	2,200	67,200
Iowa		26,600
Kansas	300	22,000
Kentucky		33,600
Louisiana		21,600
Maine		15,500
Maryland	1,000	20,500
Massachusetts		78,500
Michigan	8,200	127,000
Minnesota		48,100
Mississippi		35,500
Missouri	600	40,900
Montana	100	3,900
Nebraska		9,600
Nevada		400
New Hampshire	500	21,700
New Jersey		63,500
New Mexico	100	6,400
New York	4,000	132,700
North Carolina	3,800	145,300
North Dakota	1,200	1,300
Ohio	5,800	151,800
Oklahoma		25,900
Oregon		28,900
Pennsylvania	2,200	132,500
Puerto Rico		17,700
Rhode Island	200	12,000
South Carolina	1,400	55,200
South Dakota	1,600	6,400
Tennessee	200	57,700
Texas	900	156,200
Utah		15,000
Vermont	700	9,500
Virginia	2,200	51,400
Washington	900	65,100
West Virginia	400	9,000
Wisconsin	3,200	73,100
Wyoming	100	1,200
Virgin Islands		300

□ 2145

HOW WILL YOU KNOW YOUR VOTE COUNTED ON ELECTION DAY?

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. HOLT) is recognized for 30 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. HOLT. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days within which to revise and extend their remarks and insert extraneous material on the subject of this special order.

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

There was no objection.

Mr. HOLT. Mr. Speaker, I am pleased to be joined this evening by my colleague the gentlewoman from Ohio (Ms. KAPTUR) and my colleague the gentleman from Ohio (Mr. BROWN).

Let me begin with a question. On Election Day, how will you know if your vote is properly counted? In many precincts, in many States around this country, the answer is you will not. Imagine, it is election day and you enter your polling place to cast your vote on a brand new electronic touch-screen voting machine. The screen is large; it is well lit; it is accessible if you have physical disabilities. Your choices are clearly spelled out before you. In fact, it looks as easy to use as the ATM at your bank. You breathe a sigh of relief that you no longer have to figure out a complicated butterfly ballot. It seems more modern than the old lever machines.

So you make your choice and you touch the submit button and cast your vote. The screen says your vote has been counted. You exit the polling place with a sense of satisfaction, and then you begin to wonder. How do I know if the machine actually recorded my vote the way I intended? The fact is you do not. You have to trust the software in the machine to be error free.

After the 2000 election, we in Congress recognized that we had to act to restore the integrity and reliability of our electoral system by making dimpled chads and other voting irregularities things of the past. Last October, we passed the Help America Vote Act, known as HAVA. It is groundbreaking election reform legislation that is currently helping States throughout the country replace antiquated and unreliable punch cards and other machines.

However, HAVA is having an unintended consequence. HAVA has done some good things. It is giving people with disabilities access, access that they have been denied for years. In fact, they have always been denied. HAVA is doing some great things, but it is leading a headlong rush by States and localities to purchase computer voting systems that suffer from a serious flaw. All models, even the most convenient and accessible, have the problem that once the voter touches the button, the voter has no way of knowing whether the vote has been counted as the voter intended. No one will ever know. It is a secret ballot and must be secret.

This uncertainty, this lack of confidence can be disastrous to voter confidence and can prevent an accurate recount and can be a step on the way to the undoing of our democracy. I am not an anti-technology Luddite. I am a physicist. I am something of a techie. I see real advantages in these electronic machines.

There are several important advantages such as their accessibility if you have physical disabilities. Their speed and efficiency, so that the results will be communicated to the county clerk quickly. They are probably more reliable than the county clerk. I certainly had an experience with the clerk in my county when she awarded one precinct to my opponent by a margin of 9,000 votes when there were not 9,000 people who lived in that precinct. It was a simple pencil and paper clerical area. The electronic machines will do away with that, but there is one fundamental problem. They are inherently unverifiable.

To again make the point that this is not the concern of an anti-technology Luddite, I would say that hundreds of nationally renowned computer scientists have raised a cry of alarm, saying that unless there is an independent verification method to safeguard the accuracy and the integrity of the voting process there will be, might not might be, these computer scientists say there will be problems. There might be accidental software errors. There might be, God forbid, malicious hacking, and if there are concerns, if the voter is uncertain, if the candidate is uncertain whether the votes have been recorded the way they were cast, a recount is meaningless. The computer that has a faulty tally 2 minutes after the polls closed will have the same faulty tally a day later when the recount is held or the next month when the judge opens it up. If there are errors, they will go unnoticed and unknown.

The history of progress in our system of self-government here in America is in many ways a history of increasing the franchise, extending the right to vote and the ability to vote, increasing accessibility and reliability of the process of voting, but we still have some problems. We see declining voter turnout, and we have all heard, my colleagues here from Ohio I am sure have heard, constituents say, well, my vote does not count. Some people when they say that mean that special interests dominate the process and overwhelm my vote in secret back room deals. And we all work hard to see that that concern is removed, but they often mean something else when they say my vote does not count. They mean, literally, my vote does not count, my vote will not be counted.

The level of concern around the country is astounding. The Internet is burning up with back and forth chat of concerns about our voting process, and the loss of confidence in the process leads to a loss of failure to vote, leads to a cheapening and eventual breakdown of our democracy.

Every voter who stays home, whether it is because the voting places are physically inaccessible to them or because of a lack of trust in the voting process is a loss to democracy. We must find, we must find a way to keep the voter directly connected to the verification process so the voter knows that her vote or his vote is the vote that is counted.

It is not good enough to give them reassurance that the manufacturer says the machine works fine. Without taking steps to return the verification to the voter and to restore trust in the process, we face a crisis, pure and simple.

I have with me someone who has paid close attention to the electoral process. My colleague, the gentleman from Ohio (Mr. BROWN), was the Secretary of State of Ohio, and one of his responsibilities, as I believe, was to ensure the accuracy and the reliability of the voting system. And I think he understands, as well as anyone, the potential crisis we face or maybe it is not even potential anymore. I would be pleased to yield to my friend from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from New Jersey. I do not have the technical expertise that the gentleman, the physicist, has.

I, for 8 years, ran Ohio's election system, then the sixth largest election system in the country, an election system where we saw in Presidential elections 4.6 million Ohioans go to the polls. In gubernatorial years, we might see 3.2, 3.3 million people go to the polls. In primary and special elections, elections in odd number, mayoral years, township trustee year, we would see fewer people, but what underlined all of that, and I think my friend from New Jersey (Mr. HOLT) spoke this very well, was how important confidence in the system is and whether it is everyone for everyone, confidence in an accurate count is paramount.

The confidence as far as the voter is concerned that my vote will be counted is paramount. Confidence that the candidates running for office or the advocates for the issues on the ballot or the opponents to the issues on the ballot, but all of the stakeholders, the players, the candidates, the participants they must be confident that the elections are held fairly and honestly. The media which cover the elections, which write about the elections, which analyze the elections, it is equally as important that the media have full confidence in the electoral process, that every vote is counted.

While the technology is different from my career in the 1980s, from 1983 up through 1990, certainly the technology is different, I also saw technology evolve during those 8 years I was Secretary of State. In some counties, when I began, they used a simple paper ballot. Some counties used a machine. Some counties used that punch card. We began to see new technologies, counties using different methods of casting votes and counting votes, but in every one of those cases, in every one of those counties, what stayed paramount was the confidence that the votes would be counted properly so that the voter had confidence,

the candidates had confidence and the media had confidence that this was a fair operation.

They were confident because we, as election officials, there were people that ran the State election system, that ran each local precinct, each polling place, each local board of election, we could show to them that votes, in fact, were counted fairly. We had paper trails. No matter how they were voting we were able to show that, yes, the votes were counted correctly.

We had plenty of people protest. We would have recounts, but during the recounts, people would be able to watch representatives of both sides to make sure the votes were counted fairly, and they always were in the end, and this is what my concern is.

I am not a Luddite anymore than my physicist friend from New Jersey is. I am not against progress. I do not have any of those fears, but I am concerned as I hear people in my District in both parties express those concerns that we are voting on computers, and we do not have paper trails in some of this equipment.

Then I hear some sort of irresponsible statements made by some executives from some companies who are active participants in these elections, and I hear comments from people I know around my State that that scares a little bit, and I do not think this is a question of fear, but it is a question of concern, and I am just asking this Congress to pay special attention to this whole process so that people can continue to have confidence in the election system.

Every election is a big election. This election next year, I think we will see the highest voter turnout we have had in decades because I think people have such strong feelings on all sides about the way the country is being run today, and I want to be able to say in good conscience, say next October as we lead into the November election, that I have full confidence in the way that votes will be cast and full confidence in the way that votes will be counted. It is what we owe the people. It is what our republic is based on, one person, one vote, and one person, one vote only works if every one of those one voters have the confidence in the election that they need to have.

So I thank my friend from New Jersey for his yeoman's work and leadership on this.

Mr. HOLT. Mr. Speaker, I thank my colleague for his insight, and he makes this important distinction about having confidence in the way the votes are cast and having confidence in the way the votes are counted, and it is not necessarily the same thing. It is the electronics inside the machine that connects those two, and it is that gap which makes them inherently unverifiable.

□ 2200

I have legislation that would, I believe, overcome this shortcoming. But before I talk about the details, and I will not go through all the details, but before I outline that legislation, I would be pleased to yield to my friend, the gentlewoman from Ohio (Ms. KAPTUR), who has deep and strong concerns about this.

Ms. KAPTUR. I want to thank the gentleman from New Jersey (Mr. HOLT) for his extraordinary leadership on this very, very important piece of legislation that he has introduced, H.R. 2239, taking his great intelligence and experience as a physicist and wedding it to his legislative experience here in the Congress and trying to help our Nation improve on the voting systems that we have, but to do so in a way that every voter will be confident that when they cast their ballot that their vote is really in there, in that machine.

In fact, I begin with that statement because one of the leading election officials in my own district said to me, Congresswoman, I do not have confidence that in what is being done right now that I can answer to the citizens of this county that their vote will be in there. How do they know it's in there? Give me the confidence that I know it's in there. I said, I am supporting Congressman HOLT's bill so that we get an auditable paper trail at every precinct.

I would say that in addition to being a U.S. Representative, which I was elected to rather later in life, the very first office I was ever elected to and still hold is precinct committeewoman in my own home precinct. Ohio is unlike some of the other States in the Union, but we value every vote at the precinct level. We count the votes at the precinct level. Under Ohio law when you cast your vote and there is a paper trail currently in every precinct in our county, over 500 of these precincts, the votes in that precinct are counted right there. They are not taken to another location. Both Democrats and Republicans count these votes together, and there are actual documents that they have to handle, physically handle and then tally and then those votes are both sent to the board of elections in a central location, but also posted on the door outside that precinct. Any voter can go and take that tally at the end of the day. We have a very transparent system, one in which our major parties have confidence. Every tally that is done in the voting logs that are assembled in every precinct, they are added up. Sometimes mistakes are made in the precincts in terms of the tallies but then those are caught at the central board of elections, and we try to really assure that the count is as fair as possible. If it is not, if people have any concern, if there is a one-vote margin in an election, you can go back to the paper trail and you can go back and see what was done in every single precinct in the county.

I wanted to say to the gentleman, I think that this verification is so extraordinarily important. What happened in Florida at the moment could not happen in Ohio because in Florida they move their ballots to a counting station. They do not count in every precinct. Speaking as a Buckeye, speaking as an Ohioan, I do not want our rights taken away from us at the precinct level. I also would, if the gentleman will allow me, wish to place in the RECORD this evening for every election official in this country, at every county in the country, at every precinct, at every board of election, I have found great confusion as to what the Help America Vote Act actually requires and the Federal Election Commission on its Web site has what is required by the Federal law, every single year.

And indeed it is not until January 1, 2006, that every State and jurisdiction is required to comply with the voting systems requirements of the Help America Vote Act that we passed last year. Some people are under the impression that they have to have everything done by next year. They do not. They can get a waiver that they have to file with the Federal Election Commission this coming January. The secretaries of state of our country should have notified counties of this. But I can tell you, as I go out into my Ohio counties, the local boards of election simply do not know this. There is great concern and there is great consternation. I will place this in the RECORD.

I would also like to say to the gentleman from New Jersey, in addition to his bill which I hope we can pass expeditiously, I would urge our State legislatures to adopt no-fault absentee voting, that if there is any concern next year at any precinct or a doubt about the integrity of that machine, that voters can have an alternate way of casting a vote in that county through no-fault absentee voting or indeed even paper ballots at the same precincts, so that people have confidence that their vote will be counted.

Mr. HOLT. So that the voter can vote. If there is any question about eligibility or other questions about the vote, those will be settled later and the voter will be able to cast the vote on election day. That is what the gentlewoman means, I believe, by no-fault voting.

Ms. KAPTUR. That is what I mean. If I might just take one additional moment of the gentleman and then complete my remarks. One of the reasons I think this is important is when we passed the Help America Vote Act, the Bush administration was to have appointed an election commission that would set Federal standards for the development of the technologies that you know are so critical. They have not done that. In fact, the commission does not even exist, so there are no Federal regulations.

Mr. HOLT. The appointments have been made, but the other body has not acted and the commission does not yet exist.

Ms. KAPTUR. So there are no Federal standards. I can tell the gentleman

that in Ohio our secretary of state displayed five different technologies in our State House. I sent down a computer security team from our region in the State from all of our major universities and said, please assess the machines. These were all people involved in computer security. They came back and reported to me that of the five systems under review in Ohio, not a single one they would rate either excellent or very good in terms of both ease of use to the voter and security. That was a devastating finding to me.

Even though I voted for HAVA, I went back to the drawing boards and looked at what was going on in my State. My State at this point has received the $41 million to buy machines, to buy technology which is probably not enough money to get an optical scanner and a paper trail, but it has not received the larger amount of money it should have received, $117 million, to do the voter education and all of the work that is necessary to bring up these new systems. So even though we voted for this law, just Ohio is $66 million short in trying to bring these technologies up by next year. I wanted to place this on the RECORD.

Timing is vital.

While communities are waiting to find out exactly how much money they may be getting, and some others do not want to move on acquiring equipment until they are sure of how much money they will be receiving, it is important to keep in mind:

While HAVA does state that new election machines should be in place for 2004; it is possible to get an extension until the first federal election held after January 1, 2006;

But in order to get this extension, an application must be submitted no later than January 1, 2004, at this point, to the General Services Administration, providing good cause for why the exemption should be granted;

GSA did send a letter to every governor and state election director when the initial Title I money was provided last year. However, they have not yet sent out a reminder of the impending deadline.

So far, only Illinois has applied for the extension, and this request was approved last week.

Other reasons why the extension should be requested:

Gives more time to make sure that the right machines are acquired, if new machines are acquired;

Gives more time to test and verify the machines;

More importantly, it gives more time for the vote verification provisions of the Holt bill to be implemented in a fashion that will be the most efficient with respect to any new voting machine system.

And it gives more time for people to decide whether or not they actually want to buy new machines, because while HAVA provides for new machines, it does not mandate them if current voting systems can demonstrate that they meet the integrity requirements of HAVA.

HELP AMERICA VOTE ACT TIMELINE

Days/months after enactment	Date	Activity
45 days	December 13, 2002	Section 101: GSA establish grant program for payments to States to improve election administration.
45 days	December 13, 2003	Section 102: GSA establish grant program for payments to States to replace punch card or lever voting machines.
	January 1, 2003	States must be ready to accept materials from individuals who register by mail. Section 303(b).
90 days	January 27, 2003	Chief State election officials transmit notice to FEC Chair (and/or EAC) containing name of State election official and local election official selected to serve on Standards Board.
120 days	February 26, 2003	Appointment of 4 EAC Commissioners.
	March 31, 2003	State NVRA Reports for 2001–2002 due to FEC.
6 months	April 29, 2003	Last date on which States may submit certification to GSA for Section 101 payments.
6 months	April 29, 2003	Last date on which States may submit certification to GSA for Section 102 payments.
	June 30, 2003	2001–2002 NVRA report submitted to Congress.
	October 1, 2003	EAC adopts recommendations and voluntary guidance on Section 302 Provisional Voting Requirements.
	October 1, 2003	EAC adopts recommendations and voluntary guidance on Section 303 provisions on computerized statewide voter registration list requirements and mail registration requirements.
12 months	October 29, 2003	EAC submits Human Factors Report to the President and Congress. (Section 243).
12 months	October 29, 2003	EAC submits to Congress report on free absentee ballot postage. (Section 246).
	January 1, 2004	Deadline for States to qualify for waiver of computerized statewide voter registration databases.
	January 1, 2004	Last date for States applying for waiver of deadline for replacement of punchcard or lever voting machines using Section 102 payments.
	January 1, 2004	States not participating in the grant programs shall certify to the EAC that the State has established an administrative complaint procedures (Section 402), or has submitted a compliance plan to the U.S. Attorney General.
	January 1, 2004	Effective date for Section 302 provisional voting and voting information requirements.
	January 1, 2004	States and jurisdictions required to comply with Section 303 requirements pertaining to computerized statewide voter registration lists (unless qualified for a waiver) and 1st time voters who register by mail.
	January 1, 2004	EAC adopts voluntary guidance recommendations relating to Section 301 Voting Systems Standards requirements.
	January 1, 2004	Effective date of new Section 706 UOCAVA amendments prohibiting States from refusing to accept registration and absentee ballot applications on grounds of early submission.
	January 1, 2004	EAC submits first Annual Report to Congress.
18 months	March 29, 2004	EAC (in conjunction with FVAP) submits to the President and Congress a report and recommendations for facilitating military and overseas voting. (Section 242).
20 months	May 29, 2004	EAC submits to House and Senate a report on the issues and challenges presented by incorporating communication and internet technology into the election process. (Section 245).
	November 2, 2004	All punchcard and lever machines replaced in States accepting Section 102 payments, unless qualified for waiver.
	March 31, 2005	State NVRA Reports for 2003–2004 due to EAC.
	June 1, 2005	EAC submits report to President and Congress on voters who register by mail. (Section 244).
	June 1, 2005	EAC (in conjunction with SSA) reports to Congress on the feasibility and advisability of using SSN or other such information to establish registration or other election eligibility and ID requirements. (Section 244).
	June 30, 2005	2003–2004 NVRA report submitted to Congress.
	January 1, 2006	Each State and jurisdiction required to comply with the voting systems requirements in Section 301.
	January 1, 2006	Deadline for States to implement computerized Statewide voter registration database if qualified for waiver.
	First election for Federal office after January 1, 2006.	All punchcard and lever machines replaced in States accepting Section 102 payments who qualified for a waiver of the original deadline.
	January 1, 2007	Voting systems purchased with Title II requirements payments must meet disability access standards in section 201.

[From the Washington Times, Oct. 29, 2003]

TOUCH-SCREEN VOTING READY, OFFICIALS SAY

(By Arlo Wagner)

Officials overseeing four of the five municipal elections Tuesday in Montgomery and Prince George's counties said yesterday they are confident that their electronic touch-screen voting machines are secure, despite lingering concerns that the machines are vulnerable to hackers and tampering.

''It's actually more secure than it was before,'' said Barry Smith, manager of election technology for Gaithersburg, one of the cities that used the Diebold AccuVote-TS in its elections two years ago.

Voters in Gaithersburg had an opportunity to try out the machines yesterday at three of the city's five polling places. Few voters, however, came out to the Asbury Methodist Village polling place, where, historically, the highest percentage of voters cast paper ballots.

Election officials said the low turnout could indicate that voters in that precinct were satisfied with the touch-screen machines last time.

''This is better than the old system,'' said Sarah Paxton, administrative secretary to Gaithersburg's city manager. ''It may take a voter only 30 seconds to vote.''

Registered voters must show identification to get a computerized card, which they then insert into the base of the machine. Once the card is in the machine, the names of all candidates are displayed on the screen.

Voters touch the names they are selecting. If they touch too many names, the screen will go blank and voters will have to start over. Once the preferred candidates are chosen, the machine will eject the card. The voters then must turn the card over to one of the judges who is overseeing the process.

Montgomery was one of three counties in Maryland to use the computerized voting machines in 2001. In July, a team of researchers at Johns Hopkins University in Baltimore found that the underlying computer code in the machines was vulnerable to outside parties.

After the Hopkins analysis, Gov. Robert L. Ehrlich Jr., a Republican, ordered San Diego-based Science Application International Corp. (SAIC) to review the system. Last month, SAIC reported that the system, ''as implemented in policy, procedure and technology, is at high risk of compromise.''

Mr. Ehrlich and state election officials decided the flaws identified by SAIC could be corrected before the presidential primary election in March. Maryland agreed to purchase $55.6 million worth of machines just days before SAIC released its findings this summer. The machines are expected to be installed in 19 of Maryland's 23 counties.

Last week, several members of the Maryland's General Assembly asked for its own ''independent'' analysis that would, among

other things, examine issues about the electronic voting machines. That report is scheduled to be concluded before the General Assembly convenes in January.

Despite prior reviews of the system, officials in the four of the five cities that will be using the machines Tuesday say they had no problems with them last Election Day. Those cities holding elections are Takoma Park, Rockville, Gaithersburg, Greenbelt and College Park.

''We had no problems in the last election,'' said Catherine Waters, city clerk of Takoma Park, where voters next week will use the touch-screen machines to select a mayor and six city Council members.

Voters in Greenbelt will use a different computerized voting machine when they elect all five members to the City Council.

''I don't think anyone is batting an eye,'' Greenbelt City Clerk Kathleen Gallagher said.

However, voters in College Park will not use the touch-screen machines when they go to the polls to choose a mayor and four council members.

''We will be using paper ballots,'' which might be old-fashioned but are familiar to about 10,000 registered voters, said Yvette Allen, of the City Clerk's Office.

The municipal elections in Montgomery and Prince George's counties are dominated by unopposed incumbents.

In Rockville, voters will decide whether to elect a mayor and City Council every four years, instead of two. This will be the 59th city election in the city's 116-year history, said Neil Greenberger, the city's public information officer.

Voters in Gaithersburg will be electing three of the five council members.

Mr. HOLT. I thank the gentlewoman, and I think her insertions in the RECORD will be very useful to people. I thank her for her insightful comments.

I would make the point that even though HAVA does not require action immediately, the sooner we implement HAVA, the better. There are many people with physical disabilities who have been denied the privilege and the satisfaction of voting in person and in private. HAVA would correct that. But we must not let HAVA lead us to unverifiable voting. That is why I am proposing legislation that would, I think, correct this problem. It would require that all voting systems produce a paper record, an audit trail that is verified by the voter. In other words, each voter will see and verify a paper record of the vote. That will allow manual audits. It will mean that recounts actually mean something. This would be the vote of record. It would be kept safely with the election records for recounts.

My legislation would do some other things such as banning undisclosed software and would accelerate the date by which the provisions for people with disabilities would have to be met. But the fundamental point I wanted to make is that voting should not be an act of faith as my colleagues have said. It should be an act of record. It is also important to make the point that what I am talking about here is nonpartisan. It is preserving the sanctity of the ballot. This is not a Republican matter or a Democratic matter. It is fundamental to the American system.

I am sorry to say that the Internet is buzzing with conspiracy theories. In other words, voters are afraid that something is afoot. It was reported in this week's Newsweek by Steven Levy that suspicions, as he says, run even higher when people learn that some of those in charge of the voting technology, the manufacturers of the voting machines, are themselves partisan. The CEO of a major company is a major fund-raiser for the Presidential reelection campaign. He recently said that he was ''committed to helping Ohio deliver its electoral votes for the President next year.'' According to this article, he later clarified that he was not talking about rigging the machines.

Whew. That is actually Mr. Levy's expression. Whew.

By the proposal that I have, the legislative proposal I have, the printout would be at the voting machine at the time that the voter votes, available for the voter's inspection and verification. And it would go into a secure lockbox. If there is a need for a recount, the paper ballots would be tallied. It may not be a perfect system, but it is a way to assure the voters that the process is honest.

It is troubling that this is not getting as much attention here in this body as it should. An article appeared in the New Zealand Herald a few days ago. The article begins, ''The possibility of flaws in the electoral process is not something that gets discussed much in the United States Congress. The attitude seems to be, we are the greatest democracy in the world, so the system must be fair.''

That is not good enough. We are a great country because we constantly try to do better, because we constantly try to increase the franchise, increase accessibility to democracy, increase the reliability of the process. That is what we need to do. Yet from all over the country, I get e-mails. For instance, from Georgia: ''If we can't verify our elections, then we can't verify our freedom.''

From Idaho someone writes: ''Those who cast the votes decide nothing. Those who count the votes decide everything.''

From Michigan: ''The act of voting is the most essential issue. This issue is the most essential issue our representatives will vote on and they should be judged accordingly.''

From North Carolina: ''A paper trail is the only reasonable solution to any computer-mediated transaction. As a corporate system security analyst, I find the electronic devices as they now stand without this verifiable backup simply irresponsible.''

From North Dakota: ''There is no confidence nor integrity without it.''

From Ohio: ''I work with computers every day. We need to check that what goes in is what comes out.''

From Oregon: ''Without this, I will no longer view this country as a democracy.''

From Tennessee: ''If there is no accountability in election, there is no reason to vote and we descend into anarchy.''

From Wisconsin: ''If voters perceive,'' the key word here is perceive, ''that their votes are being miscounted and are meaningless, they will simply stop voting.''

That gives you some sense of the seriousness that voters assign to this issue. It is very important. This body should turn its attention to restoring the voters' trust in every way we can. One important way we can do that is by making sure that they have confidence in the process that makes this democracy work, the process of voting and then, of course, the process by which we fulfill the trust that they place in us.

As I have talked about this with people, I have run into a number of opinions. I was talking with an election official from another State who said, Well, we've had these electronic machines for several years now and we've had no problems. To which I said, How do you know?

□ 2215

He did not have an answer. We have to help him get that answer.

Mrs. JONES of Ohio. Mr. Speaker, I rise today in support of every American's basic right to vote and to have that voted counted.

As it stands, voters have no way of knowing what is actually recorded, once they vote. H.R. 2239, the bill introduced by my colleague from New Jersey, would make certain the process of voting is not in any way a leap of faith.

This act would ensure our constituents see a record of verification for the votes they cast. When Americans go to the bank, they receive some manner of documented record, ensuring that their money is going where they intended. Likewise, Americans who use voting machines deserve a documented record confirming their vote was recorded correctly.

Nine percent of the U.S. population records their votes electronically. These numbers greatly vary from State to State. Twelve percent of Ohio votes are recorded electronically. Eighty percent of Kentucky voters use electronic ballots. Without an adequate confirmation method, mechanical misvotes could have a drastic impact on close elections. The problem would go unnoticed.

H.R. 2239 would also accelerate the deadline for compliance with voting systems standards from January 1, 2006 to the regularly scheduled November 2004 general Federal election. In order to guarantee accurately recorded votes for next year's election cycle, Congress must act now. We cannot put the basic rights of our constituents on hold.

The right to vote is a right every citizen of this country deserves. As Members of Congress, we all have an obligation to make sure all of our constituents' votes are counted through the most fair and accurate means available. Not just the blacks. Not just the whites. Not just the browns. Not just the yellows. Not just the Christians. Not just the Jews. Not just the Muslims. Not just the Atheists. Not just the Republicans. Not just the Democrats. The right to vote should not be reserved for just most of our constituents, but for all of our constituents.

WAR PROFITEERING IN IRAQ

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

Mr. PALLONE. Mr. Speaker, earlier this month Congress approved an $87 billion supplemental for the war and reconstruction efforts in Iraq. While I believe it is critically important that we get our military troops all the resources they need to safely complete their mission in Iraq, I do not support rubber-stamping this legislation so the Bush administration gets a free ride from Congress.

The Bush administration must account for its war strategy. The Bush administration must also answer the tough questions regarding questionable no-bid contracts, contracts that benefit Vice President DICK CHENEY's former employer, an employer that continues to pay CHENEY hundreds of thousands of dollars each year in deferred salary, contracts that are free of any oversight from Congress.

Mr. Speaker, right now Halliburton holds a monopoly on Iraq. The company's no-bid contract was first negotiated in secret and originally intended for the sole purpose of extinguishing oil fires that could result from the war. Once again in secret last spring, that contract was extended with the Army to include the reconstruction and repair of Iraq's oil infrastructure. The administration did not allow other companies an opportunity to bid on this reconstruction.

Now, today, Mr. Speaker, just today, Halliburton faces no competition and no oversight. And today also the Bush administration announced the contract would be extended longer than expected, blaming sabotage of oil facilities for delays in replacement contracts.

Up to this point, Halliburton has been free to spend the American taxpayer's money at will and Congressional Republicans who, night-in-and-night-out, come to this House floor to complain about waste in the Federal Government, have been silent. I think that is outrageous.

In fact, many of my colleagues on the other side of the aisle try to compare our reconstruction efforts in Iraq to those efforts included in the Marshall Plan at the end of World War II. But what my Republican colleagues neglect to say is that President Franklin Roosevelt stood up against war profiteers when he said, ''I don't want to see a single war millionaire created in the United States as a result of this world disaster.''

President Bush and House Republicans, who have never been shy about their efforts to help the wealthy expand their wealth, certainly do not share Franklin Roosevelt's sentiment.

After World War II, Congress also refused to neglect its role in overseeing taxpayer money when the Senate unanimously created a special committee headed by then Senator Harry Truman to root out waste, corruption, inside trading and mismanagement in the Nation's defense industries. But, today, the Senate and the House, both controlled by Republicans, have turned a blind eye to possible waste and mismanagement. Congressional Republicans refuse to even question the Bush administration on the billions of dollars of taxpayer money now going to Halliburton, much less create a special committee to oversee these funds.

I ask you, Mr. Speaker, what are my Republican colleagues afraid of? Why do they refuse to hold Halliburton accountable for the billions it now spends in Iraq? Could it be Congressional Republicans do not want to draw much attention to the fact that the company profiting from the reconstruction of Iraq, Halliburton, continues to pay Vice President CHENEY hundreds of thousands of dollars each year?

The Vice President tried to squash such a story when he appeared on Meet the Press on September 14. The Vice President stated, ''And since I left Halliburton to become George Bush's Vice President, I have severed all my ties with the company, gotten rid of all my financial interests. I have no financial interest in Halliburton of any kind, and haven't had now for over 3 years.''

Well, despite the Vice President's claims, the Congressional Research Service issued a report several weeks later concluding that because CHENEY receives a deferred salary and continues to hold stock interests, he still has a financial interest in Halliburton. In fact, if the company were to go under, the Vice President could lose the deferred salary, a salary he is expected to continue to receive this year, next year and on into 2005. While losing around $200,000 a year would not put a big dent in the Vice President's wallet, he clearly still has a stake in the success of Halliburton.

It is possible that Halliburton is the right company to do this work in Iraq, but how then does the Bush administration and the Republican Congress explain why there is so much secrecy surrounding the whole deal? Could it be that the Republican Congress and the Bush administration are concerned that the more light that is shed on Halliburton's use of taxpayer money would be more examples of waste and mismanagement that would likely be exposed?

Despite the fact that Halliburton now goes about its business in Iraq without any Federal oversight, my colleagues on the Democratic side, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN), exposed the outrageous fact that Halliburton seems to be inflating gasoline prices at a great cost to American taxpayers.

In a letter to OMB Director Joshua Bolton, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN) wrote that the independent experts they consulted have been appalled to learn that the U.S. Government has paid Halliburton $1.62 to $1.70 to import gasoline into Iraq. According to these experts, the price that Halliburton is charging for gasoline is outrageously high, potentially a huge rip-off and a highway robbery. During the relative period, the average wholesale cost of gasoline in the Mideast was around 71 cents per gallon, meaning that Halliburton was charging 90 cents per gallon just to transport the fuel into Iraq. According to the experts, such an exorbitant transportation charge is inflated many times over. Compounding the cost to the taxpayers, this expensive gasoline is then sold to Iraqis at a price of just 4 to 15 cents per gallon; 4 to 15 cents per gallon.

Now, Iraq has the second largest oil reserves in the world, but the U.S. taxpayers are, in effect, subsidizing over 90 percent of the cost of gasoline sold in Iraq.

In light of this new information, the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. WAXMAN) requested that OMB Director Bolton provide copies of all contracts, task orders, invoices and related documents issued to date regarding Halliburton's work in Iraq so Congress can conduct its own independent investigation of these issues on behalf of the U.S. taxpayer.

This request from my Democratic colleagues seems reasonable. After all, if Halliburton is grossly overcharging the American taxpayer for the transportation of oil, what else might the company be overcharging the Federal Government for?

Once again, my Republican colleagues are silent on the issue. Those waste-watchers that come down here periodically and talk about waste in the Federal Government, those Republicans who come down to the floor periodically to rail against waste, a government they currently control, I might add, you do not see them coming down to the floor to rail about Halliburton's gauging of the Federal purse. They are silent. You do not see any Republicans expressing the need for more Congressional oversight of the current contracts going to Halliburton and others.

It appears to be another example of how the House Republicans have taken this House away from the people and handed it over to an elite few, the corporate executives and other special interests.

Mr. Speaker, I could go on, but I see that many of my colleagues on the Democratic side have joined me here. So I would like to yield at this time to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. I want to thank the gentleman from New Jersey (Mr. PALLONE) for putting this special order together this evening so we can place on the record a number of our deepest concerns about the way in which contracting is being handled relative to

the war in Iraq, and particularly some of what appears to be war profiteering by some of the highest officials in our government and some of the private firms with which they have had association.

I came down here this evening because as a member of the Committee on Appropriations, when funds were being debated for Iraq and Afghanistan, I was denied the opportunity, and I emphasize, denied the opportunity to even offer an amendment to require competitive bidding in any contract associated with this war effort. I could not believe that I was not even allowed to offer the amendment. I remember I was told, ''Well, you know, Congresswoman, they are going to take care of that over on the Senate side,'' I mean, ''in the other body.''

I said, ''Oh, are they?''

Then I found out the way they are going to take care of it is only to allow a provision to be offered for reporting back. That means once the horse was out of the gate, maybe some contracts would be reported back, but there would be no competitive bidding. Then I learned this last month that only the contracts after March 1 might be reported back.

I said, ''No, no, no, what about the contracts for Halliburton and Bechtel that preceded March 1? That is what is at issue in the current supplemental that is working its way through this Congress.''

I thought, oh, that is very interesting.

So I cannot get competitive bidding considered as a real amendment. Even in the reporting-back amendments it is everything that comes after March of this year, maybe, and we closed the door on what happened before March 31 of this year.

So my question is, who is trying to hide what? Who is trying to hide what?

So I come down here as a disgruntled Member tonight, because I should have been allowed the opportunity. We are not talking about tiddly-winks here. We are talking about the largest supplemental in American history. $87 billion was just voted out of this House, and yet there were no requirements for competitive bidding, and the reporting-back requirements are flawed. We need to know who got how much money and we need to understand who is benefiting from the taxpayers' largess and who is profiteering.

The gentleman from New Jersey (Mr. PALLONE) has put on the record some very important information, and it has to do with the amount of money that Halliburton is being paid to move petroleum and gasoline from Kuwait to Iraq. Now, remember, Iraq has the second-largest oil reserves in the world, and it is estimated that it would normally cost 70 to 98 cents for a gallon of gasoline to move from Kuwait to Iraq.

Well, how come Halliburton is charging upwards of $1.78, anywhere from $1.48 to $1.78 a gallon, and the American people then are paying for that differential? How is that happening in all of this?

There is an estimate that Halliburton is actually making from this anywhere between $300 million and $900 million, because about a third of the dollars they are getting relate to the transport of fuel from Kuwait to Iraq. So this is not something small. This is not a little asterisk or a little tiddlywink or whatever. This is a huge amount of the additional funds that we were requested to spend as a Congress.

The U.S. Army Corps of Engineers reported that as of September 18, last month, the United States had paid Halliburton over $300 million to import approximately 190 million gallons of gasoline into Iraq, and that meant that on a per-gallon basis for that tranche of shipment of fuel, Halliburton charged the United States an average price of $1.59 a gallon to import gasoline into Iraq. And that did not include Halliburton's additional fee of 2 percent to 7 percent, which increases the cost to our taxpayers to $1.62 to $1.70 per gallon for fuel that should move at a rate in that region of anywhere between 73 cents, as I said, and 98 cents a gallon.

Somebody is making an awful lot of money. Halliburton has received over $3 billion in task orders relating to the war and reconstruction in Iraq, and most of that is not competitively bid. When did we ever have contracts of that magnitude not competitively bid?

I would just like to place on the record, if I might this evening, information on the amount of compensation that Vice President CHENEY, who had been the chief executive officer of Halliburton, is receiving.

Vice President CHENEY made a statement on national television that he was not receiving any compensation, had no financial interest in Halliburton, and I would beg to say I think he has forgotten some pretty important facts, even that his own financial disclosure forms reveal. For example, a special report done for the Congressional Research Service indicates that he is in fact receiving deferred salary and holding 433,333 Halliburton stock options. I wish to place on the record tonight what he is receiving in deferred salary and what he is receiving in stock options and other benefits.

Let me start with deferred salary. Deferred salary paid by Halliburton to Vice President CHENEY in 2001 equalled $205,298. I think when you have that much money and you are getting your salary as Vice President, my question is, why do you not donate it? Why do you even take this money?

In 2002, his deferred salary from Halliburton was $162,392. Halliburton is scheduled to make similar payments to him in 2003, 2004, and 2005, and he has an ongoing corporate relationship from company funds that are being paid.

□ 2230

In terms of stock options, his financial disclosure form stated he continued to hold these stock options, and they are in three categories. There are 100,000 shares valued at $54.50 a share, so for that tranche of shares, that value is $5,450,000. He then has 333,333 shares, and I wonder how that number was picked, valued at $28.12, and then he has 300,000 shares. Imagine. I mean, I do not know how many people here own stock, but 300,000 shares valued at $39.50 is a huge amount of money. The total value of these shares right now is over $26,674,990.

So to say that the Vice President has no interest in Halliburton's future, one would have to be a fool, or not be able to read, even to hold that position. He absolutely has a financial interest in this company. His family has a huge financial interest, and it is a gross interest. It is not some side issue. The Vice President's deferred compensation and stock option benefits are in addition to a $20 million retirement package paid to him by Halliburton after only 5 years of employment. I would like to know how many Americans listening tonight have a $20 million retirement package for only working 5 years.

I think of how many of our people have lost their retirement packages. I have people in my district struggling to hold on to benefits and are paying more for health insurance from the retirement programs they had been promised. A third of the private sector plants in this country have gone belly up or have been cut. I can see why this Vice President cannot identify with the pain of unemployment or the pain of 45 million Americans without health insurance, or the pain of Americans who cannot afford prescription drugs. He is not even living in the same world. Halliburton paid him $1.4 million in cash bonus in 2001, and that does not include the millions of dollars of compensation paid to him while he was employed by the company.

So I wanted to thank the gentleman from New Jersey (Mr. PALLONE) for putting this Special Order together tonight. What was interesting about the no-bid contracts that Halliburton received when we had Hurricane Isabel and that made the front pages all over the country, including here in Washington, the Bush-Cheney administration slipped in an additional $300 million in no-bid contracts to Halliburton, and it was placed, I do not know, on page 27 or 35; it was buried somewhere in the paper that weekend. But, literally, that brought the total amount of taxpayer dollars paid to Halliburton to over $2.25 billion, of which $1.25 billion, and this is not million, even million would be a lot, but this is $1.25 billion from the no-bid exclusive contract given to Halliburton.

Mr. Speaker, I am really pleased tonight to be down here to help place this on the record as one Member who was denied the ability in her own committee and on this floor to offer a competitive bidding amendment for all contracts related to the war effort.

Mr. PALLONE. Mr. Speaker, I want to thank the gentlewoman. I appreciate the detail that she went into there with respect to the Vice President's compensation and his interest in Halliburton. I was frankly not aware of the level or the magnitude of the stocks and the pension plan and all of the other details. It is incredible what it adds up to. I mean, if I had to add that all up, it comes to maybe $50 million, between the deferred compensation, the stocks and the retirement plan, over $50 million. It is outrageous to think that with that kind of compensation and interest, that the government where he is the Vice President would give out these no-bid contracts. I thank the gentlewoman.

I yield to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank my colleague and good friend, the gentleman from New Jersey, and I appreciate the participation in this effort tonight.

Mr. Speaker, it is a good thing that our government is handing out no-bid contracts for minor purposes such as rebuilding the country of Iraq, because if the government was giving out no-bid contracts for important things like buying stationery at the county courthouse through a no-bid contract, somebody would be going to jail.

Now, like many of us serving in the United States Congress today, I began my career as a local government official. I was a county judge in Texas in charge of the budget and the finances of the county. In Harrison County, Texas, if we needed a piece of equipment for the road and bridge department or fuel for the county, or if we needed any kind of equipment for the county; if we even needed a case of stationery, Mr. Speaker, do my colleagues know how we got that property for the government? We got it through a competitive bid process. That is the law.

Now, in examining competitive bids in Texas, the law says to consider several factors, among them the vendor's price, the quality of goods and services, and past performance of contracts. Mr. Speaker, we considered those things in Texas because it was and is the law. But more than that, requiring bids is fiscally responsible and guarantees that we get the best deal for the taxpayer dollar. Additionally, it guarantees that we get the best service and the best quality product.

Mr. Speaker, in all of my years in local government, I never had one constituent or one company complain about the bid process. It was the law, it was expected, it was proper, it was good business. It is good for government. It is good for the taxpayers, and it is good for American business. That is why, Mr. Speaker, I was shocked and my constituents who I have heard from have been appalled to learn that our Federal Government is awarding no-bid contracts. Now, this is no-bid contracts, not for stationery, no, not for stationery or a few thousand dollars, but no-bid contracts for billions of dollars to rebuild Iraq. No bid, no competition, no oversight, no nothing, Mr. Speaker.

Mr. Speaker, the United States has the finest construction experts in the world. We have the best education, the best technology, the best expertise, the best equipment and workers that the world has ever seen. Products made in America are the finest quality products made anywhere. Our workers, our products can stand any test, can stand any bid. That is why we do not need no-bid contracts. We do not need these secret deals. We do not need smoky back-room politics for billions of dollars.

Now, we do need transparency. According to the Associated Press today, the government issued a noncompetition, no-bid contract to Halliburton for $1.59 billion to help rebuild Iraq. Now, why was there no bid? Why these secret deals, Mr. Speaker? Why are there back-room politics for billions of dollars? Also today, the AP announced that the contract was extended at a cost of $400 million. Again, why no bid? Why secret deals? Why do we have these back-room politics?

Mr. Speaker, Halliburton and its subsidiaries are some of the top construction companies in the world. They can clearly compete for these contracts on their own merits, on their own past. They do not need no-bid contracts. They do not need back-room deals. They can do it on their own. And the same could be said of Bechtel, which has been granted a multibillion dollar monopoly franchise on infrastructure reconstruction contracts. Bechtel too is a top-rate company with top-rate abilities and top-rate employees. They can make it on their own and they want to, and they have. So this is not really a criticism of Halliburton and Bechtel. No-bid contracts, Mr. Speaker, are really good work if you can get them. That is some good work. No, this is a criticism of an administration which makes billions of no-competition, no-bid contracts available. It is a criticism of an administration that has a personal financial interest in government contracts.

Mr. Speaker, it has been reported extensively in the press that the Vice President currently receives compensation from Halliburton. The Vice President has said that not all of those reports are true, and he said that he has no financial interest in Halliburton. We have heard our colleague, the gentlewoman from Ohio (Ms. KAPTUR), read into the RECORD information concerning compensation to the Vice President and, importantly, the amount of stock and options he owns.

Now, there is an easy way to put this to rest. The Vice President should state unequivocally that he receives no compensation from Halliburton, no deferred compensation from Halliburton, he owns no stock, receives no dividends, owns no options, has absolutely no financial interest of any sort which would include both him and his family. That would put an end to this issue permanently. That would be the end of it. I think everyone in this House and everyone in the American public would agree that the administration and members of the administration should not have any personal interest whatsoever in government contracts, period. And we have to abide by those rules in the House.

Next, we should establish a policy to bid out these contracts and award the bids to the best bidder, taking into account cost, quality, and past performance. I am sure Halliburton and Bechtel would get some of these contracts. I am sure they can. But that is the process we go through. In other words, let us take a business-like approach. I believe that is what Halliburton and Bechtel and the others really want. They want contracts. They do not want politics. They do not want criticism. That is our obligation to the American taxpayer. Because do we know who is paying these exorbitant prices for these no-bid contracts? It is you and me. It is the American taxpayer. Many of us in this body support making at least some of the rebuilding funds to Iraq as a loan to be repaid. Many of us believe that Iraq should at least use some of its own oil to rebuild its own country. But this administration says no. They say we have to give the money away, and, on top of that, waste it with no-bid contracts, the money that we are giving away.

Now, Mr. Speaker, we all agree that the United States has a part to play in rebuilding Iraq, and that is a laudable goal. Of course, many of us also believe that we have a part to play in rebuilding America, and we should pay just as much attention to rebuilding American schools and American roads and American infrastructure; that is our first obligation. Let us get started on that today.

But, Mr. Speaker, we can bet that the contracts in America will be done by bid. That is the proper way to do business, and everybody in this House on both sides of the aisle knows it. It is the proper way to do business. It saves money. It is good for us all. We should expect no less than that in Iraq, and we should expect no less than that of our current administration.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman. Again, I just think it is incredible to think that as the gentleman said on a local level or a county level, even down to the stationery that is purchased, you have to have competitive bidding. Yet, here at this level, with billions of dollars at stake, it is not happening. I think most Americans would probably be shocked to find out that that is true, but it is.

I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from New Jersey, my friend, and I appreciate hearing the comments from the gentleman from Texas (Mr. SANDLIN) and the gentlewoman from Ohio (Ms. KAPTUR), and I

thank the gentleman from New Jersey (Mr. PALLONE) for his night after night work on exposing the kinds of corruption that we have seen in this whole process.

We all know about this corruption. We know that we are spending $1 billion a week in Iraq. We know that $300 million, 30 percent of that $1 billion a week is going to private contractors, most of them friends of the President, most of them major contributors to the President. One of them, Halliburton, used to be the company where the Vice President was CEO and a company that still pays the Vice President $13,000 a month. We know all of that. We know about the corruption. We know about the waste. We know it continues. But what bothers me, what bothers me probably the most about that is what Halliburton and these private contractors are not doing.

Last month, early this month, I had a meeting with 25 families in Akron, Ohio, in my district on a Saturday morning. It was going to be about an hour and a half meeting and ended up being over 3 hours, with 25 families who had loved ones in Iraq. What I heard was how our government, and our government, unfortunately, now includes a privatized military worth $300 million out of $1 billion that goes to Halliburton, and our government has simply failed these service men and women. The stories are legion; we are all hearing them in our districts. I heard them for 3 hours that day. We do not have safe drinking water for our troops. Hundreds, thousands of our troops are getting, have gotten dysentery. We do not have sufficient antibiotics in many cases. We do not have, and this is the most shocking and the most troubling, we do not have enough body armor for our men and women in uniform. One-fourth of servicemen and -women lack the body armor they need; and that body armor will not be available until December, we are told by Mr. Bremer, the person the White House has hired, that President Bush has hired to oversee the rebuilding of Iraq, and by Mr. Rumsfeld.

Mr. Speaker, I am incredulous that we are spending $1 billion a week, 30 percent of that money going to the President's friends, and many of it, much of it in an unbid contract, as the gentlewoman from Ohio (Ms. KAPTUR) has shown us; yet we cannot find enough money to provide safe drinking water for our troops. We cannot supply and protect our troops sufficiently. We do not have enough money, or the wherewithal to get the antibiotics to them that they need, and we do not have sufficient body armor when President Bush knew we were going to war at least a year ago, and still cannot have enough body armor for our men and women there.

So I do not get it. We have seen this kind of corruption and incompetence on the part of the President, the White House, the military, the civil authority, the military leaders. We are seeing brave men and women over there. But the people who are running this operation, we are seeing corruption and we are seeing incompetence, and we are seeing a small number of companies get incredibly rich. We are seeing the President's campaign chest fatten every day.

Tomorrow the President is going to be in Columbus, Ohio, in my State, raising several hundred thousand dollars, maybe $1 million. We are hearing that every week he is going out on a funding trip. Vice President CHENEY, about the only time he is in public is for a fund-raising trip. They always raise money from Halliburton and Bechtel and these contractors.

□ 2245

So, I mean, think of this circle. We are spending $87 billion this Congress is about to appropriate. We are already spending a billion dollars a week. A third of that money goes to private contractors who are friends of the President, who give money to the President's campaign. Yet where is the focus on protecting and supplying our troops? I guess it is not criminal, but it is just incredible to me that the President of the United States is so intent on fundraising and so intent on feeding his political friends and getting these political contributions in return, that this White House, and this administration, and the military brass and the civilian leaders that the President has appointed to run Iraq have taken their eye off the ball. They have lost focus on the most important thing over there and that is the supplying and protecting of our troops.

I would like to see some answers. We apparently are not getting them. I hope tonight, if some people from some of the top brass of the Pentagon are watching, some people at the White House, maybe they can give us answers. I asked Mr. Bremer at committee questions about this. We do not seem to be getting any answers there.

I am nonplussed by it all, Mr. Speaker. I hope that this administration can do better so that our troops have safe drinking water, our troops have the body armor they need, our troops have the antibiotics they need.

We can simplify this reconstruction of Iraq so we are not wasting huge amounts of money, so we are not doing it through unbid private contracts, so that we are doing it through a competitive bid process so Americans can feel more comfortable that our troops can be safer so that this operation will work better.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Before you continue, taking all comments into consideration, the Chair will remind all Members that it is not in order to accuse the Vice President or President of unethical behavior or corruption either directly or by innuendo.

Mr. BROWN of Ohio. Mr. Speaker, if I may, may I say the actions of the administration are corrupt and incompetent?

The SPEAKER pro tempore. A Member may criticize the administration, but may not personally accuse the President or Vice President of corruption.

Mr. BROWN of Ohio. Mr. Speaker, I mean, it is not the Clinton administration, although we still seem to hear that from time to time. It is the Bush administration. May I say that?

The SPEAKER pro tempore. It is appropriate to discuss ''the administration'' but Members may not make personal accusations against the President or Vice President.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate that.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. BROWN) for his comments. I know we want to emphasize these no-bid contracts, but you are bringing up the fact that this money that is being spent on these no-bid contracts, at the same time is depriving money that could be spent for the troops, I think is very well-placed.

Many of my constituents talk about how so much of this reconstruction effort goes to Iraq and so little of the same type of thing is being done here in the United States.

Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for gathering us here tonight to talk about an issue that is very much in the minds of the American people. Where is our $87 billion going?

And I do not know if the gentleman has seen Newsweek this week. The cover story is ''Bush's $87 Billion Mess. Special Investigation. Waste, Chaos and Cronyism: The Real Cost of Rebuilding Iraq.'' And I thought I would just refer to some of this.

Now, I know that the President has cautioned us not to believe what we read and that we should not emphasize the negative, but we should look for the positive and that you cannot believe all these negative news reports. And I do not know if he is necessarily questioning this Newsweek investigative report, but I thought, in any case, that because it is a reputable magazine that I might refer to some of the findings here.

The headline of the story is ''The $87 Billion Money Pit. It is the boldest reconstruction project since the Marshall Plan. And we cannot afford to fail. But where are the billions really going,'' is the question that it asks.

So let me just read a little bit of this. This says, ''No doubt, reconstructing postwar Iraq is a brutally hard and hazardous task. Sabotage has already destroyed some 700 power transmission towers. But George W. Bush, who has staked his Nation's credibility and perhaps his Presidency on success in Iraq, has no choice but to set things right.

''Iraqis like to point out that after the 1991 war, Saddam restored the badly destroyed electricity grid in only 3 months. Some 6 months after Bush declared an end to major hostilities, a much more ambitious and costly American effort has yet to get to that point. It is only in recent weeks that the coalition amped up the power generation level that Saddam achieved last March; 4400 megawatts for the country, though it has since dropped back.''

I just wanted to emphasize that point because we are told now that electricity is at the level that Saddam had but, in fact, it has dropped back.

''True, Saddam did not have a guerilla war to contend with, and his power infrastructure was in much better shape than the Americans found it, but he also had fewer resources.

''Six months ago the administration decided to cut corners on normal bidding procedures and hand over large contracts to defense contractors like Bechtel and Halliburton on a limited bid or no-bid basis. It bypassed the Iraqis and didn't worry much about accountability to Congress. The plan was for 'blitzkrieg' reconstruction. But by sacrificing accountability for speed,'' Newsweek says, ''America is not achieving either very well right now. For months no one has seemed to be fully in charge of postwar planning. There has been so little transparency that even at the White House, 'it was almost impossible to get a sense of what was happening,' on the power problems, says one official privy to the discussions.

''Numerous allegations of overspending, favoritism and corruption have surfaced. Halliburton, a major defense contractor once run by Vice President Dick Cheney,'' as earlier statements indicated, he still is benefiting from his relationship to Halliburton, ''Halliburton has been accused of gouging prices on imported fuel, charging $1.59 a gallon while the Iraqis 'get up to speed,' when the Iraqi national oil company says it can now buy it at no more than 98 cents a gallon. The difference is about $300 million. Cronies of Iraqi exile leader Ahmad Chalabi, Newsweek has learned, were recently awarded a large chunk of a major contract for mobile telecommunications networks.''

So it is a really interesting article. There is a lot in here. But one of the other things that it has is some charts. ''What critics say. Waste not.'' This is in a chart. It says, ''Congressional Democrats are raising eyebrows at price tags.'' Some examples: Repair. U.S. engineers estimated $15 million for repairs on a cement plant in northern Iraq. The project was given to local Iraqis instead. Remember it was $15 million was the estimate from the U.S. contractors. It was done by local Iraqis for $80,000. $15 million; $80,000.

Rebuild. Big business contractors refurbished 20 police stations in Basra for $25 million. An Iraqi official contends locals could have done it for $5 million.

Also talks about Iraqis versus U.S. jobs, local labor. It is cheaper to hire Iraqis for reconstruction projects. Unequal pay. Non-Iraqi security guards make $1,200 a day working for U.S. companies in Iraq, 144 times that of Iraqi guards who make $250 a month. So for a British or U.S. security guard $1,200 per day, an Iraqi security guard, $8.33 a day.

Then it talks about the Iraq's luxury items. These are some of the expenditures. I think we actually may have cut some of them out, but these were the proposals. They are talking about a kind of feeding frenzy going on for contractors in Iraq. At the same time, and I am glad that the gentleman from Ohio pointed out a number of things that are being shortchanged, like body armor for our soldiers, but a proposal that we may be still going through in our $87 billion, I am not sure, $33,000 per pickup truck, or $2.64 million for 80 vehicles, $9 million to create zip codes, a numbered postal system throughout the country. $6,000 per radio or phone. That added up to $3.6 million. $50,000 per prison bed, way more than we spend here in the United States. $400 million for two new 4,000-bed prisons. And it goes on and on.

A couple more things I just wanted to point out, if I could, there is a section called waste, fraud, and abuse. It says American companies are barred by law from paying bribes or taking kickbacks abroad, but Iraq is still largely a lawless place. And one company director for a British firm doing business in Baghdad said that makes all the difference. Quote, ''I have never seen corruption like this by expatriate businessmen. It is like a feeding frenzy,'' he says. One prominent Iraqi businessman said he was told he had to raise his bid by $750,000 to get a major contract so long as he kicked back that amount to the contractors rep. The businessman refused to identify the contractor, but did say, quote, ''No Iraqi would ask for a bribe that big,'' unquote.

At the very least, Americans have a right to know exactly what is going on, how is our money being spent, a completely transparent process. Because if we are going to send our young men and women over there who put their lives at risk every day without the proper equipment that could save their lives, and all of these billions and billions of dollars are going to private contractors who are responsible for taking care of them and providing what is needed in Iraq in some cases, that is part of what we hire some contractors for, then for heaven's sakes, we want accounting of that.

If it is too much, then we have got to cut that price. I mean, $87 billion, no wonder the American people had sticker shock and no wonder when they read stories like this they are saying why should we be handing this check to this administration when they cannot even be trusted to take care of our young men and women in uniform but they are more than taking care of and padding the pockets of their good friends at Halliburton and Bechtel and still not getting the job done and still not providing the electricity and still not making Iraq more safe for the Iraqi people yet.

Now that may be happening but at what cost to the American people. We just want to know. And I thank the gentleman from New Jersey (Mr. PALLONE) for letting us ask that question.

Mr. PALLONE. Well, again, I thank the gentlewoman from Illinois (Ms. SCHAKOWSKY) but I just think most Americans will be shocked to find out that there is no accountability, that there is all these no-bid contracts. The kinds of things that you are asking for would seem to be basic. It is essentially the right to know what we are spending our money on.

And, again, I just think it is outrageous that we do not have the accountability, that we have the no-bid contracts. Every effort, as the gentlewoman from Ohio (Ms. KAPTUR) said, to try to include that in this supplemental was basically rejected by the Republican leadership.

Mr. Speaker, I yield to the gentleman from Florida (Mr. MEEK.)

□ 2300

Mr. MEEK of Florida. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE). I want to commend the gentleman and all of the other Members who have taken time from their schedule, their late evening schedule, to be here to share with the American people about what is going on in this government.

We are not being here tonight to be accusatory and say, well, since we are Monday morning quarterbacks, the administration likes to call any Member of Congress that questions their activities critics. I think it is important that the administration understands that this is a democracy. This is not kingdom politics. We want to come together as a people's government to be able to bring about the questions that need to be answered; and, hopefully, some outcome measures will happen.

I will state that what is very disturbing is national publications that are out saying, ''$87 Billion Mess.'' Other publications, newspapers are talking about the waste in Iraq. Meanwhile, on the other side of the aisle, we have individuals that are trying to find other ways to be deficit hawks but not really paying attention to what the President and others are doing as it relates to this administration's mishandling of these dollars.

We talk about troop protection. We cannot even do that correctly. And I am not talking about individuals in uniform. I am talking about individuals in shirts and ties that are making bad decisions here today.

Halliburton. We can go into tomorrow morning if the rules would allow us to be able to do so talking about the mismanagement and the no-bid contracts that have been given.

I watch some of the Sunday shows, and I cannot believe the Secretary of State. I cannot believe the Vice President of the United States. I cannot believe Condoleezza Rice. I cannot believe what the President is saying at the press conference as though he says, well, we are going to bid. Well, they are not bidding now. They have not bid in the past, and in my opinion we are not going to have good bidding and good competition in the future. I do not care what the administration may say. I believe that this will continue.

I know the gentleman's kids are asleep right now. My kids are asleep. They have to go to school tomorrow, but we need to go in their bedroom and take a real good look at them like we usually do before we go to bed. I think any parent or grandparent can really appreciate what I am talking about.

I think we need to understand this $87 billion and then seeing the waste and seeing the loose contracting requirement that this administration has allowed to go on in Iraq. This $87 billion on top of the billions of dollars that we gave earlier this year comes out to about $166 billion, which feeds not only into the deficit beyond $400 trillion, but I think also it is important that we remember that it is $28 million dollars a week in interest.

Now, I have said that before on the floor and I think it is important while you are looking at your children and grandchildren, looking at this deficit. I do not know, maybe the gentleman can share, I believe the Democrats have come to the floor to just get a child tax credit for individuals that work every day that make under $26,000 a year, and we cannot get the other side to allow those individuals to receive their child tax credit.

Mr. PALLONE. Mr. Speaker, we have brought up a motion on a weekly bases to instruct the conferees to bring up that child tax credit for the lower-income Americans, and the conference has not even met. They have not even had a meeting to discuss trying to bring the two Houses together. They have no intention, Republicans have no intention of doing anything on the issue.

Mr. MEEK of Florida. Can I also say that the gentleman from Texas (Mr. DELAY) has said that it is not going to happen, the majority leader of this House.

Mr. PALLONE. Absolutely that is what he said.

Mr. MEEK of Florida. That is quite disturbing. We see some of the cost overruns that have been pointed out here tonight and this is factual. This is not fiction. This is not something that one may say, well, they are just Democrats that are upset. There are Republicans that are upset, but they are not going to say anything about it because they fear the administration and that is going to happen. And I think it is important that we raise these questions.

I think it is important on behalf of the children of this country, on behalf of veterans, on behalf of those individuals that stood in the line of fire for us to be able to have the freedom to speak here tonight on this floor and this free country. We cannot allow this to continue to happen, and I believe that the American people are going to understand this sooner rather than later.

I want to also say that I think it is important, Mr. Speaker, it is important that we continue to share these facts with the American people. And I want the American people to ask their Members of Congress, Democrat and Republican, Members of the other body also, ask them about the accountability of the $87 billion, ask them about the fact that we are not loaning dollars, but we are granting dollars.

I am from south Florida, and I have a city in my district, North Miami Beach, a well-run, well-operated city; but they are having budget problems. They are having to cut programs on behalf of homeland security, doing what this government asked them to do, protect the power plant, protect the water plant; but meanwhile, they are looking for some help from this Federal Government. And they are not receiving it. And we are giving, not loaning, giving dollars.

There are students right now that are studying at many of our institutions of higher learning right now, not only studying to try to pass the exam at the end of the week or at the beginning of next week; they are also trying to figure out how they are going to pay back their student loans with interest. And they are giving these dollars away to companies that are watching the New York Stock Exchange and NASDAQ for their numbers for their investors. I will not call it criminal, but it is close to it to even look at this.

I think it is important that we continue to take time out, and I want to commend the gentleman from New Jersey (Mr. PALLONE) and the other Members that have joined us here tonight in bringing this to the attention of the American people. Think about it, $128 million a week in interest, and then on top of that, mismanagement and no bid contracts.

I join with my other colleagues saying, if this is progress, I do not even know if we can take any more of it, financially, fiscally, and also on behalf of protecting our troops.

Mr. PALLONE. Mr. Speaker, I think it is very important, as the gentleman brought out and others have tonight, what the consequences are of these actions of these no-bid contracts and driving up costs. It means that we do not have money for other programs, whether it is for the troops as the gentleman from Ohio (Mr. BROWN) mentioned, or it is for other domestic concerns here at home. There is no question about it, the deficit is, what, 4 or $500 billion now? A few years ago we had no deficit in the last few years of the Clinton administration. So there is a huge cost for taxpayers and to the future of the country that is being incurred here in order to pad these contracts.

I just wanted to end tonight by pointing out that although we are concentrating on Halliburton and the no-bid contracts this evening, there are a lot of other ways that Republicans are making profits on the reconstruction effort in Iraq. Last month the New York Times had a front page story entitled ''Washington Insiders, New Firm Consults on Contracts in Iraq.'' And according to this September 30 article, a group of businessmen linked by their close ties to President Bush, his family and his administration has set up a consulting firm to advise companies that want to do business in Iraq, including those who are seeking pieces of taxpayer-financed reconstruction projects. This firm, called New Bridge Strategies, is headed by Joe Albaugh, President Bush's campaign manager in 2000 and director of the Federal Emergency Management Agency until last March.

The article states that other directors included Edward Rogers, Jr., and Lanny Griffith, who were both assistants to the first President George Bush and now have close ties to the White House.

The company's Web site. Which you can look up yourself says, ''The opportunities evolving in Iraq today are of such an unprecedented nature and scope that no other existing firm has the necessary skills and experience to be effective both in Washington, D.C. and on the ground in Iraq.''

So not only is this administration helping CHENEY'S friends at Halliburton, the administration is also helping some of its own, giving them a leg up, working with other future contractors in Iraq.

If you are a contractor, think about it, why would you not want to go to these guys? They can probably tell you who you can get a contract from where you do not have to disclose where you are spending the money. It has got to be music to the President's corporate friends' ears. Unfortunately, it is also another major hit to American taxpayers. This is another way of padding the bills.

You do not hear the Republican Waste Watchers that come here frequently and talk about the waste of the Federal Government, they do not talk about this.

Mr. Speaker, throughout the debate on the Iraq supplemental, Democrats have attempted to shed some light on these issues by offering a substitute that required a detailed report from the President describing how funds in the previous war supplemental have been spent. It also required the notification of noncompetitive contracting and tightened public disclosure requirements.

So we have been out there actually offering the substitute to the supplemental that would get rid of these no-bid contracts; but, of course, it did not pass. The Republicans voted against it.

So I think the only thing we can do is do what we are doing tonight. Ask the tough questions. With the extension of this Halliburton contract today, I do not think we can wait any longer to see how this company is spending the taxpayers' money.

I naively thought that the contract was going to end today and it would not be extended; and when I read that it was going to be extended, I just could not believe it. The process continues. And I think we just have to be here every night or as often as we can to point out how outrageous this is and what the administration is doing.

□ 2310

Mr. Speaker, I yield to the gentleman from Florida (Mr. MEEK).

Mr. MEEK of Florida. Mr. Speaker, just really when we think about it, we are making millionaires basically. We are making millionaires out of Iraq, not only out of the supplemental but out of the Iraq appropriations as it relates to private contracting. That is what is happening.

So we hear speeches from the administration how we want to empower Iraqis and how we want them to take control of their own government and their own economy, and the reality is it is not happening. I do not care if an individual is an Independent, a Republican, a Democrat. I am talking about an American voter. That is very simple. Individuals who have set up shop, not only here in the Beltway with higher connections in the administration, to be able to say I will give you the edge, I do not think there is a lobbying firm set up to help Iraqis get the edge.

So I cannot help but question that, and I think that as we continue to talk about this and as the media continues to reveal what we are talking about here tonight, once again, I just want to clarify. These are not just proud, card-carrying Democrats who say, hey, let us take a shot at the Republicans. We are not talking about that. We are talking about facts, not fiction. We are talking about kids and our grandchildren having to pay for what we are doing here today.

This Congress did not even have the gumption to say, okay, if we believe that we have to send an additional $87 billion in a supplemental of borrowed money, that we will find a way to be able to pay for today, that it will not be on the backs of our grandchildren and our children. That did not happen, and right now, the House and the other body will come together in some sort of conference committee, and I am not a betting person, but I can pretty much guess that we are going to end up giving Iraq the money, and we are going to have shortfalls.

Every Member of this body will end up having fewer dollars to be able to take back to their Districts to be able to build our economy, to build an economy that will create jobs, not an economy that individuals will just say, okay, I need to tuck this away and put it away, but individuals will actually be hired, that jobs will be looking for people and people will not have to look for jobs.

Mr. PALLONE. Mr. Speaker, I just hope that somehow our bringing this to light will make a difference. I know it will not in that $87 billion supplemental because they are going to bring that back tomorrow or the next day, and all these no-bid contracts and the other things we are talking about are going to continue, but I think if we continue to bring it to light, ultimately there will be some changes.

So I want to thank the gentleman again and all my colleagues for being here tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CASE (at the request of Ms. PELOSI) for today after 5:00 p.m. and the balance of the week on account of official business in the Middle East with a congressional delegation.

Mr. ORTIZ (at the request of Ms. PELOSI) for today after 4:00 p.m. on account of official business.

Mr. AKIN (at the request of Mr. DELAY) for today after 5:00 p.m. and the balance of the week on account of leading a congressional delegation to Iraq.

Mr. MCCOTTER (at the request of Mr. DELAY) for today after 5:00 p.m. and the balance of the week on account of traveling with an official delegation to inspect reconstruction efforts in Iraq.

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. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. ROSS, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. TERRY) to revise and extend their remarks and include extraneous material:)

Mr. PENCE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, November 5.

Mr. TERRY, for 5 minutes, today.

Mr. SHUSTER, for 5 minutes, today.

ADJOURNMENT

Mr. MEEK of Florida. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 13 minutes p.m.), the House adjourned until tomorrow, Thursday, October 30, 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:

4973. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors; Past Performance Issues (RIN: 3038–AB97) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4974. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Denomination of Customer Funds and Location of Depositories (RIN: 3038–AB31) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4975. A letter from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule—Food Stamp Program: Non-Discretionary Quality Control Provisions of Title IV of Public Law 107–171 (RIN: 0584–AD31) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4976. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Karnal Bunt; Regulated Areas [Docket No. 02–037–2] received October 7, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4977. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegatable Programs, Department of Agriculture, transmitting the Department's final rule—Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Increased Assessment Rate [Docket No. FV03–945–1 FR] received October 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4978. A letter from the Deputy General Counsel. Office of Financial Assistance, Small Business Administration, transmitting the Administration's final rule—Business Loans and Development Company Loans (RIN: 3245–AE68) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4979. A letter from the Secretary, Department of the Treasury, transmitting a six-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997, as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003; to the Committee on International Relations.

4980. A letter from the Assistant Secretary for Legislative Affairs, Department of State,

transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 03–39), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4981. A letter from the Director, Office of Human Resources Mangement, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4982. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Exclusions from Income and Net Worth Computations (RIN: 2900–AJ52) received October 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4983. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Co-payments for Inpatient Hospital Care Provided to Veterans Enrolled in Priority Category 7 (RIN: 2900–AL35) received October 27, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4984. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Veterans Education: Independent Study Approved for Certificate Programs and Other Miscellaneous Issues (RIN: 2900–AL34) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

4985. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule—Disease Associated with Exposure to Certain Herbicide Agents: Chronic Lymphocytic Leukemia (RIN: 2900–AL55) received October 16, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee of Conference. Conference report on H.R. 2115. A bill to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes (Rept. 108–334). Ordered to be printed.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 421. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–335). Referred to the House Calendar.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 422. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes (Rept. 108–336). 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. KELLER (for himself, Mr. MILLER of Florida, Mr. PUTNAM, Mr. WILSON of South Carolina, and Mr. CRENSHAW):

H.R. 3385. A bill to amend the Higher Education Act of 1965 to prevent sex offenders subject to involuntary civil commitments from receiving Federal student financial aid; to the Committee on Education and the Workforce.

By Ms. LEE (for herself, Mrs. CHRISTENSEN, Mr. WYNN, Mr. PAYNE, Mr. THOMPSON of Mississippi, Ms. JACKSON-LEE of Texas, Mr. CUMMINGS, Ms. MILLENDER-MCDONALD, Mr. WEXLER, Mr. CONYERS, Mr. OWENS, and Ms. CORRINE BROWN of Florida):

H.R. 3386. A bill to provide assistance to combat infectious diseases in Haiti and to establish a comprehensive health infrastructure in Haiti, and for other purposes; to the Committee on International Relations.

By Mr. EVANS (for himself and Mr. RODRIGUEZ):

H.R. 3387. A bill to amend title 38, United States Code, to improve health care programs of the Department of Veterans Affairs and to extend certain expiring authorities; to the Committee on Veterans' Affairs.

By Mr. TANCREDO (for himself, Mr. MOORE, and Mr. MORAN of Virginia):

H.R. 3388. A bill to amend title 10, United States Code, to provide for the issuance of a military service medal to each member of the Armed Forces who served honorably during the Cold War, and for other purposes; to the Committee on Armed Services.

By Mr. MILLER of North Carolina (for himself and Ms. HART):

H.R. 3389. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations; to the Committee on Science.

By Mr. SCHROCK (for himself, Ms. GINNY BROWN-WAITE of Florida, Mr. SIMMONS, Mrs. CAPITO, Mr. FORBES, Mr. MILLER of Florida, Mr. HAYES, Mrs. JO ANN DAVIS of Virginia, and Mrs. WILSON of New Mexico):

H.R. 3390. A bill to amend title 10, United States Code, relating to prescription drug benefits for Medicare-eligible enrollees under defense health care plans; to the Committee on Armed Services.

By Mr. CANNON (for himself, Mr. BISHOP of Utah, and Mr. MATHESON):

H.R. 3391. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; to the Committee on Resources.

By Mr. EVANS (for himself and Mr. MICHAUD):

H.R. 3392. A bill to amend title 38, United States Code, to make certain improvements in the procedures for adjudication of claims for benefits under laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. BALLENGER:

H.R. 3393. A bill to amend title 40, United States Code, to add Catawba and Cleveland Counties, North Carolina to the Appalachian region; to the Committee on Transportation and Infrastructure.

By Mr. BOEHLERT (for himself, Mr. HOUGHTON, Mr. JOHNSON of Illinois, Mr. BLUNT, Mrs. KELLY, and Mr. SWEENEY):

H.R. 3394. A bill to clarify the lands over which Indian tribes shall have jurisdiction or exercise governmental power; to the Committee on Resources.

By Mr. HERGER (for himself and Mr. MATSUI):

H.R. 3395. A bill to amend the Internal Revenue Code of 1986 to clarify the definition of contribution in aid of construction; to the Committee on Ways and Means.

By Mr. KING of Iowa:

H.R. 3396. A bill to direct the Secretary of Health and Human Services to establish a process under which a provider of services or other health care provider under the Medicare Program may petition the Secretary for an adjustment of the rate of payment made to that provider under the Medicare Program based on a significant inequity between the rate of payment applicable to that provider, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCRERY:

H.R. 3397. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes; to the Committee on Ways and Means.

By Ms. MILLENDER-MCDONALD:

H.R. 3398. A bill to amend title 23, United States Code, to establish a goods movement program to improve the productivity, security, and safety of freight transportation gateways; to the Committee on Transportation and Infrastructure.

By Mr. MURTHA:

H.R. 3399. A bill to suspend temporarily the duty on electron guns for certain cathode ray tubes, liquid crystal display panel assemblies for use in liquid crystal display projection type televisions, and plasma display panel assemblies for use in plasma flat panel screen televisions; to the Committee on Ways and Means.

By Mr. OTTER (for himself, Mr. CANNON, Mr. SIMPSON, Mr. NUNES, Mr. OSE, and Mr. PEARCE):

H.R. 3400. A bill to amend the reclamation laws to clarify that certain man-made facilities that receive water from a Bureau of Reclamation Project are not navigable waters; to the Committee on Resources.

By Mr. PALLONE:

H.R. 3401. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish therapeutic equivalence requirements for generic drugs, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PETERSON of Minnesota (for himself, Mr. JANKLOW, and Mr. MCINTYRE):

H.R. 3402. A bill to establish permanent authority for the Secretary of Agriculture to quickly assist agricultural producers who incur crop losses as a result of damaging weather or related condition in federally declared disaster areas, to provide emergency disaster assistance to agricultural producers for qualifying crop losses for the 2001, 2002, or 2003 crops, to continue the livestock assistance program, and for other purposes; to the Committee on Agriculture.

By Mr. RADANOVICH (for himself, Mr. BLUNT, Mr. CANTOR, Mr. CARDOZA, Mrs. BONO, Mr. DOOLITTLE, Mrs. EMERSON, Mr. GALLEGLY, Mr. HERGER, Mr. HUNTER, Mr. ISSA, Mr. KINGSTON, Mr. LEWIS of Kentucky, Mr. MCCOTTER, Mr. OSE, Mr. OTTER, Mr. POMBO, Mr. PUTNAM, Mr. SHIMKUS, Mr. STEARNS, Mr. UPTON, and Mr. WHITFIELD):

H.R. 3403. A bill to amend the Clean Air Act to modify certain provisions regarding methyl bromide, and for other purposes; to the Committee on Energy and Commerce.

By Mr. REGULA:

H.R. 3404. A bill to authorize the conveyance of the former Army Reserve Training Center in Wooster, Ohio; to the Committee on Armed Services.

By Mr. WEINER (for himself and Mr. KING of New York):

H.R. 3405. A bill to amend section 4002 of the Emergency Wartime Supplemental Appropriations Act, 2003 to provide that the same temporary extended unemployment benefits which are available to certain former employees of domestic air carriers be extended to former employees of foreign air carriers who are similarly situated, and for other purposes; to the Committee on Ways and Means.

By Mrs. MCCARTHY of New York (for herself, Ms. NORTON, Ms. CARSON of Indiana, Ms. MILLENDER-MCDONALD, Ms. MCCARTHY of Missouri, Ms. LEE, and Mrs. CHRISTENSEN):

H. Con. Res. 314. Concurrent resolution expressing the sense of Congress regarding women with bleeding disorders; to the Committee on Energy and Commerce.

By Mr. WELDON of Pennsylvania:

H. Con. Res. 315. Concurrent resolution expressing the sense of Congress that construction by the Russian Federation of a dam in the Kerch Strait region raises major concerns for the territorial integrity of Ukraine, and for other purposes; to the Committee on International Relations.

By Mr. WOLF (for himself, Mr. DELAY, Mr. SMITH of New Jersey, Mr. ROHRABACHER, Mr. LANTOS, Mr. GREEN of Wisconsin, Mr. PITTS, Mr. KIRK, Mr. FRANKS of Arizona, Ms. ROS-LEHTINEN, Mr. BARTLETT of Maryland, Mr. TOWNS, Mr. BELL, Mr. DOOLITTLE, Mr. RAMSTAD, Mr. FOLEY, Mr. ADERHOLT, Mr. BAKER, Mr. KENNEDY of Rhode Island, Mr. JONES of North Carolina, Mr. TERRY, Mr. MCGOVERN, and Mr. DEMINT):

H. Res. 423. A resolution recognizing the 5th anniversary of the signing of the International Religious Freedom Act of 1998 and urging a renewed commitment to eliminating violations of the internationally recognized right to freedom of religion and protecting fundamental human rights; to the Committee on International Relations, and in addition to the Committees on the Judiciary, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. NEUGEBAUER.

H.R. 111: Mr. MORAN of Virginia.

H.R. 251: Mr. OWENS.

H.R. 333: Mr. FARR, Mr. WEINER, and Mr. CLYBURN.

H.R. 375: Mr. NETHERCUTT.

H.R. 442: Mr. BISHOP of Georgia.

H.R. 490: Mr. HOLT.

H.R. 570: Mr. PORTER.

H.R. 594: Mr. SCHROCK, Mr. BERRY, and Mr. RENZI.

H.R. 661: Mr. JANKLOW.

H.R. 687: Mr. DEFAZIO.

H.R. 709: Mr. HOLT.

H.R. 713: Mr. LANTOS, Mr. TURNER of Ohio, Mr. BERRY, Mr. HASTINGS of Washington, Ms. KILPATRICK, and Mr. KILDEE.

H.R. 791: Ms. DELAURO, and Mr. GREEN of Texas.

H.R. 806: Mrs. KELLY, Mrs. BLACKBURN, and Mr. HOYER.

H.R. 834: Ms. DUNN.

H.R. 852: Ms. JACKSON-LEE of Texas and Mr. BAIRD.

H.R. 857: Mr. DAVIS of Illinois, Mr. WAXMAN, and Ms. SOLIS.

H.R. 885: Mr. SHADEGG.

H.R. 898: Mr. LINDER.

H.R. 942: Mr. FRANK of Massachusetts, Mr. PETRI, and Mr. FILNER.

H.R. 1117: Mr. ISSA and Mr. GINGREY.

H.R. 1229: Mr. WELDON of Pennsylvania.

H.R. 1245: Mr. LANTOS.

H.R. 1258: Mr. EMANUEL.

H.R. 1301: Mrs. CAPPS.

H.R. 1336: Ms. HART, Mr. FOSSELLA, Mr. GRAVES, Mr. BRADY of Texas, Mr. HILL, Mr. BAKER, and Mr. BURTON of Indiana.

H.R. 1502: Ms. MCCARTHY of Missouri.

H.R. 1513: Mrs. JONES of Ohio and Mr. MCINNIS.

H.R. 1532: Mr. GREENWOOD and Mr. MILLER of North Carolina.

H.R. 1582: Mr. LARSEN of Washington and Ms. DUNN.

H.R. 1671: Mr. KING of Iowa.

H.R. 1710: Mr. BOSWELL.

H.R. 1735: Mr. CLAY.

H.R. 1738: Mr. CONYERS.

H.R. 1824: Mr. ROGERS of Michigan.

H.R. 1873: Mr. DEMINT and Mr. GARY G. MILLER of California.

H.R. 1943: Mr. BOOZMAN.

H.R. 2032: Mr. ABERCROMBIE, Ms. WOOLSEY, Mrs. MCCARTHY of New York, and Mr. RAHALL.

H.R. 2045: Mr. STEARNS, Mr. HULSHOF, and Mr. GINGREY.

H.R. 2094: Mr. BARTLETT of Maryland.

H.R. 2127: Mr. ISRAEL.

H.R. 2131: Mr. DELAY, Mr. OSBORNE, Mr. BAKER, and Mr. TERRY.

H.R. 2133: Mr. MORAN of Virginia.

H.R. 2203: Mr. HONDA.

H.R. 2214: Mr. SHAW.

H.R. 2216: Mr. LIPINSKI and Mr. BISHOP of Georgia.

H.R. 2239: Ms. JACKSON-LEE of Texas and Mr. BRADY of Pennsylvania.

H.R. 2262: Ms. MCCARTHY of Missouri and Ms. BERKLEY.

H.R. 2314: Mr. ALLEN and Mr. DAVIS of Illinois.

H.R. 2405: Mr. GOODE.

H.R. 2426: Mr. PASTOR.

H.R. 2455: Mr. GONZALEZ.

H.R. 2494: Mr. MCGOVERN.

H.R. 2615: Ms. LEE and Mrs. CAPPS.

H.R. 2626: Ms. SLAUGHTER.

H.R. 2705: Mr. MCNULTY.

H.R. 2720: Mr. OWENS, Mr. GUTKNECHT, Mr. SENSENBRENNER, Mr. BLUMENAUER, Mr. BURTON of Indiana, Mr. HOLDEN, Mr. WEINER, Mr. NADLER, Mr. FATTAH, Mr. MURPHY, Mr. DOYLE, and Mrs. ENGEL.

H.R. 2735: Mr. KING of Iowa.

H.R. 2764: Mr. MCDERMOTT and Mr. BAIRD.

H.R. 2771: Mr. MCNULTY.

H.R. 2821: Mr. WOLF, Mr. GRIJALVA, Mr. RYAN of Ohio, and Mr. DEAL of Georgia.

H.R. 2839: Mr. DINGELL, Mr. DAVIS of Tennessee, Mr. MILLER of Florida, and Mr. RYAN of Wisconsin.

H.R. 2839: Mr. GARRETT of New Jersey.

H.R. 2863: Mr. BISHOP of Georgia, Mr. MCDERMOTT, Mr. DEMINT, Mr. BACA, Ms. LINDA T. SANCHEZ of California, Mr. STARK, Ms. LEE, Mr. GEORGE MILLER of California, Ms. HARMAN, Mr. BARRETT of South Carolina, Mr. BAIRD, Mr. GREENWOOD, and Mr. DEUTSCH.

H.R. 2866: Mr. KINGSTON.

H.R. 2897: Mr. WYNN, Mr. DEUTSCH, and Mr. JEFFERSON.

H.R. 2900: Mr. HERGER, Mr. WILSON of South Carolina, and Mr. CARSON of Oklahoma.

H.R. 2916: Ms. ESHOO, Mr. DOYLE, and Ms. SCHAKOWSKY.

H.R. 2928: Mr. LARSON of Connecticut, Mr. MARIO DIAZ-BALART of Florida, Mr. HASTINGS of Florida, and Mr. HOLDEN.

H.R. 2945: Mr. BOSWELL.

H.R. 2959: Mr. QUINN, Mr. GRIJALVA, and Mr. DAVIS of Tennessee.

H.R. 2967: Mr. TOM DAVIS of Virginia.

H.R. 2972: Mr. BRADY of Texas.

H.R. 3002: Mr. SAXTON and Mr. MILLER of Florida.

H.R. 3019: Ms. LINDA T. SANCHEZ of California, Mr. STRICKLAND, and Mr. FRANK of Massachusetts.

H.R. 3035: Mr. QUINN and Ms. ROYBAL-ALLARD.

H.R. 3058: Mr. MCCOTTER.

H.R. 3103: Mr. RAMSTAD.

H.R. 3124: Mr. SIMPSON.

H.R. 3125: Mr. SHUSTER, Mr. GINGREY, and Mr. EVERETT.

H.R. 3154: Mr. MCINTYRE.

H.R. 3180: Ms. ESHOO.

H.R. 3190: Mr. KING of Iowa, Mrs. JO ANN DAVIS of Virginia, Mrs. MUSGRAVE, and Mr. KINGSTON.

H.R. 3194: Mr. GONZALEZ.

H.R. 3195: Mr. CASE.

H.R. 3228: Mr. STUPAK.

H.R. 3237: Ms. WATSON, Mr. CUMMINGS, Mr. EVANS, Mr. FILNER, Mr. ABERCROMBIE, Mr. OWENS, Mr. WAXMAN, and Mr. MARKEY.

H.R. 3242: Mrs. CAPPS, Mr. UPTON, Mr. DINGELL, Ms. HARRIS, Mr. CAMP, Mr. RODRIGUEZ, Mr. LUCAS of Kentucky, and Mr. POMBO.

H.R. 3243: Ms. ROS-LEHTINEN.

H.R. 3244: Mr. OWENS, Ms. KILPATRICK, Mr. BISHOP of Georgia, Mr. WAXMAN, and Mr. SPRATT.

H.R. 3246: Mr. LEWIS of Kentucky, Mr. GARY G. MILLER of California, and Mr. BALLENGER.

H.R. 3257: Mr. STRICKLAND.

H.R. 3263: Mr. BEAUPREZ, Mrs. BLACKBURN, Mr. BOEHLERT, Mr. BRADLEY of New Hampshire, Mr. BURGESS, Mr. BURNS, Mr. CAMP, Mr. CARTER, Mr. CHABOT, Mr. COLE, Mr. CRENSHAW, Mr. ENGLISH, Mr. GILCHREST, Mr. GOODE, Mr. HOBSON, Mr. HOUGHTON, Mr. KING of Iowa, Mr. KLINE, Mrs. MILLER of Michigan, Mr. OSBORNE, Mr. PEARCE, Mr. REYNOLDS, Mr. SCHROCK, Mr. TIAHRT, Mr. WICKER, Mr. WILSON of South Carolina, Ms. DUNN, and Mr. TERRY.

H.R. 3266: Mrs. MILLER of Michigan.

H.R. 3276: Mr. GREEN of Texas, Mr. BROWN of Ohio, and Mr. MCINTYRE.

H.R. 3277: Ms. ROYBAL-ALLARD.

H.R. 3281: Mr. MEEHAN and Mrs. JOHNSON of Connecticut.

H.R. 3294: Mr. REYNOLDS.

H.R. 3318: Mr. MCKEON.

H.R. 3323: Mr. CARDOZA.

H.R. 3329: Mr. DEMINT and Mr. TERRY.

H.R. 3334: Mr. LEWIS of California and Mr. ISSA.

H.R. 3344: Mr. MARKEY, Mr. GRIJALVA, and Ms. BORDALLO.

H.R. 3350: Mr. FORD.

H.R. 3352: Mr. MEEHAN.

H.R. 3353: Mr. DAVIS of Alabama, Mr. MCNULTY, Mr. OWENS, Mr. TOWNS, and Mr. CLYBURN.

H.R. 3365: Mr. KLINE, Mr. BISHOP of Georgia, Ms. LINDA T. SANCHEZ of California, Mr. STRICKLAND, and Mr. PORTER.

H.R. 3369: Mr. RAMSTAD.

H.R. 3371: Mr. KILDEE.

H. Con. Res. 87: Mrs. CAPPS.

H. Con. Res. 126: Mr. REHBERG.

H. Con. Res. 213: Mr. BRADY of Pennsylvania.

H. Con. Res. 240: Mr. MCGOVERN.

H. Con. Res. 247: Mr. SNYDER and Ms. ESHOO.

H. Con. Res. 276: Ms. SLAUGHTER.

H. Con. Res. 285: Mr. MARSHALL, Mr. MCINTYRE, Mr. LOBIONDO, and Mr. CAMP.

H. Con. Res. 302: Mr. STARK, Mr. HOEFFEL, Mr. DAVIS of Illinois, Mr. CARDOZA, and Mr. KING of New York.

H. Con. Res. 307: Mr. FEENEY.

H. Con. Res. 310: Mr. FORBES and Mr. KINGSTON.

H. Res. 38: Mr. SANDERS and Mr. FRANK of Massachusetts.

H. Res. 42: Mr. CHOCOLA.

H. Res. 320: Mrs. CAPPS, Mrs. KELLY, Ms. LEE, and Mr. FILNER.

H. Res. 348: Mr. PAYNE.

H. Res. 373: Mr. GUTIERREZ.

H. Res. 390: Mr. MCCOTTER, Mr. HOEFFEL, Mr. DELAHUNT, and Mr. JANKLOW.

H. Res. 393: Mr. MICHAUD, Mr. LEACH, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. SMITH of Michigan, Mr. WELLER, Ms. HARRIS, Mr. BERMAN, Mr. BLUMENAUER, Mr. OSBORNE, Mr. RADANOVICH, Mr. BROWN of Ohio, Mr. GALLEGLY, Mr. MCHUGH, Mr. TANCREDO, Mr. MENENDEZ, Mr. WAMP, and Mrs. JO ANN DAVIS of Virginia.

H. Res. 412: Mr. BAIRD, Mr. BALLENGER, Mr. BOOZMAN, Mr. CANNON, Mr. HERGER, Mr. LARSEN of Washington, Mr. MCINNIS, Mr. PORTMAN, Mr. ROGERS of Kentucky, and Mr. WALDEN of Oregon.

H. Res. 414: Mr. WICKER, Mr. CHOCOLA, Mr. TERRY, Mrs. JOHNSON of Connecticut, Mr. GINGREY, Mr. HOEKSTRA, and Mr. MCCOTTER.

DELETIONS OF SPONSORS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1626: Mr. CARSON of Oklahoma.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2443

OFFERED BY: MR. ENGEL

AMENDMENT NO. 10: Page 43, after line 2, insert the following:

SEC. . SECURITY ASSESSMENT OF INDIAN POINT ENERGY CENTER.

Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall—

(1) conduct a vulnerability assessment under section 70102(b) of title 46, United States Code, of the navigable waters adjacent to Indian Point Energy Center, located in Westchester County, New York; and

(2) submit a report on that assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.

H.R. 2443

OFFERED BY: MR. HOSTETTLER

AMENDMENT NO. 11: At the end of title II (page 22, after line 5) insert the following:

SEC. . ASSIGNMENT OF OFFICER TO NATIONAL WAR COLLEGE.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"§ 152. Assignment of officer to National War College

''The Commandant shall assign an officer in the grade of captain to serve as the Coast Guard's Service Chair at the National War College.''.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''152. Assignment of officer to National War College.''.

H.R. 2443

OFFERED BY: MR. DEFAZIO

AMENDMENT NO. 12: Page 21, line 9, strike the close quotation marks and the following period.

Page 21, after line 9, insert the following:

''(e) RESTRICTION ON LOCATION.—The museum established under this section may not be located on any property that has been condemned or taken by eminent domain by the Federal Government, by a State or local government, or by any other person acting under a delegation of authority from a State or local government.''.

United States
of America

Congressional Record

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

Vol. 149 WASHINGTON, WEDNESDAY, OCTOBER 29, 2003 *No. 154*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal and living God, our Master and Friend, in the noisy confusion of life, help us to keep our minds on You. Lord, we place ourselves in Your hands as we begin this day. Your plans are better than what we can devise, so lead us with Your providence.

We thank You for this great land and for our many freedoms. Empower our Senators to be faithful in their duties, working with a spirit of unity. May they remember that all things work together for good for those who love You.

Give each of us, Lord, grace to feel the sorrows and trials of others and to bear patiently with human frailties. Give us also confidence in the eternal victory of truth and goodness.

Lord, protect our military.

We pray this in Your glorious name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today there will be a period of morning business until 10 a.m. Following morning business, the Senate will resume consideration of the Foreign Operations appropriations measure. Under the order from last night, Senator DORGAN will be recognized to offer an amendment relating to 9/11 in which there will be 40 minutes of debate. The procedural vote with respect to the Dorgan amendment is therefore expected at approximately 10:45 this morning.

Following that vote, we will begin consideration of the Healthy Forests bill. Senator COCHRAN had hoped, and we tried on several occasions, to reach an understanding that the bill will be open for relevant amendments. We were unable to reach a formal agreement for that, but I do hope we will debate amendments that are related to Healthy Forests and the Healthy Forests initiative. We all recognize the tragedy and the suffering and misery that surrounds the wildfires currently raging in California. I do think it would be unfortunate and irresponsible in many ways for this to be delayed or not to stay on the issues related to the underlying bill. We will have votes throughout today as we make progress on that bill. There is a clear urgency to finish that bill this week.

We will be looking also to execute the order with respect to the climate change bill. That agreement from July 31 allowed for 6 hours of debate. I will be working with principals on both sides of this bill in an effort to begin that debate during today's session.

There are a number of other issues that we are currently working on, including the Internet tax, which has an expiration date surrounding the issue this Friday night. We continue to talk to the interested parties to bring that to some conclusion before Friday. We have the issue of gun liability. We are discussing on both sides of the aisle as to when we might address that—not this week but possibly the following week.

On nominations, a cloture motion had been filed on the nomination of Charles Pickering to be a United States circuit judge for the Fifth Circuit. That vote will occur on Thursday. Again, we will be working in good faith to finish these measures. I thank everyone for their attention and cooperation in these matters. We do want to finish in a timely fashion and be able to leave for the recess period. There is a lot to accomplish. I think we are on track to do just that.

Mrs. BOXER. Will the leader yield for a quick question about the schedule?

I thank you for your comments about the tragedy in California. I was wondering whether it would be possible, when we take up the Healthy Forests bill, to complete work on that without interruption simply because it would send a signal of hope in terms of how we are going to deal with the communities close to forests. It is a very important piece of legislation.

Would that be possible? Could I get the Senator's commitment on that?

Mr. FRIST. We will certainly consider that and work very hard.

As my colleagues know, we are adjusting the schedule and interrupting the appropriations bills quite appropriately to address this issue, which reflects the joint priority in responding in large part to the immediacy of that response to the fires that are underway.

As I mentioned, the main obligation on both sides of the aisle is to address the issue of the climate change bill and the agreement from July 31. My intention is to stay on Healthy Forests and work aggressively. But we have to ask for cooperation on both sides of the aisle.

I would like to finish Healthy Forests as soon as possible, absolutely finish it this week. It will take focus to stay on that bill and on relevant amendments as we have been requesting.

Mrs. BOXER. If I could make——

The PRESIDENT pro tempore. Will the Senator address the Chair, please.

Mrs. BOXER. Through the Chair, I would like to address another question to the leader.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Thank you very much, Mr. President.

I just wanted to say that as far as I am concerned we will work with you to ask Senators on our side if we could have time agreements on amendments on Healthy Forests. We need to give a message of hope to people that their communities will have more help than they had in the past.

I thank you very much for your expressions here in the hope we can work together and get through that bill and move on to the global warming bill which, of course, is very important in its own right.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I will comment briefly on the schedule. I think that the majority leader has set exactly the right tone. We have to recognize the days for this session are numbered. We have a lot of work to do. I agree with his prioritization in terms of his urgency in bringing up the forest health bill, given our circumstances now in California, particularly.

Senator REID and I have had conversations with Members of our caucus and have expressed our strong desire to keep amendments to the forest health bill relevant. Now, ''relevant'' is loosely interpreted, but it is important they stay relevant. We can give the assurances to the majority leader that we will maintain relevancy in that loosely structured definition in order to complete the work on the bill. I am hopeful, as he is, if we cannot complete it today, or certainly completing it by tomorrow, recognizing that we may move to the climate bill tonight.

I also think it is critical we keep our emphasis on the appropriations process. We have a lot of work there to do and, frankly, I must say, through no fault of the majority leader, we are in a real dilemma right now with completion of the work on the foreign operations bill. We made such progress yesterday and everyone worked to try to bring it to closure. We have an AIDS amendment that deserves a vote. With that vote we could go to final passage. There is no reason we cannot complete our work on that and move to Agriculture appropriations and all the remaining bills that are to be considered.

I hope all Senators will recognize, given the plethora of work we have to do, we cannot afford to delay indefinitely appropriations amendments. We will work on this side to try to expedite consideration of these bills. But it has to be a cooperative effort on both sides. Right now that is not the case.

So I thank the majority leader for outlining the schedule. We will work with him to see if we can complete our work on time.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, just one final response.

As I think our colleagues can see, we are working together in trying to move the schedule forward. I, too, am committed to the appropriations process. On foreign operations, I think we ought to work over the next hour and see if we can resolve the differences on the outstanding amendments. Indeed, my objective is to complete that bill as soon as possible.

I will say, if we get to where we are really locked up, because Healthy Forests is important, the other issues are important, we are going to have to have some flexibility. But again, I think we ought to start working right now to resolve the outstanding amendments on foreign operations and try to finish it by midday today.

The PRESIDENT pro tempore. Does the leader desire that we have 30 minutes of morning business now?

Mr. FRIST. Mr. President, let's continue with the 30 minutes of morning business.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 30 minutes. The first 15 minutes is under the control of the Senator from Texas, Mrs. HUTCHISON, or her designee, and the second 15 minutes is under the control of the Democratic leader or his designee.

The Senator from Missouri.

Mr. BOND. Mr. President, I claim the time that has been set aside for the Senator from Texas.

SUPPLEMENTAL APPROPRIATIONS

Mr. BOND. Mr. President, I begin by thanking the Chaplain for his prayers for our brave fighting men and women in Iraq, as well as in Afghanistan, as well as for the first responders and law enforcement personnel who are putting their lives on the line every day for us. In California, we pray for those who are fighting the fires. Certainly our hearts and sympathies go out to them.

I also note, Mr. President, as you well know, that we are working hard to complete the Iraqi supplemental, which will provide the support that our troops need to be safe in Iraq, as well as the reconstruction money, which I hope we can pass quickly so we can bring the troops home.

Having said that, let me share with you an experience I had this weekend. It came as a great surprise to hear on the news this weekend that newspapers were reporting that the Intelligence Committee was preparing a report saying that the distinguished chairman of the Intelligence Committee was trying to do something with a report that was uncalled for and that would whitewash the administration, and purporting to outline material in that report.

That caught me by surprise, No. 1, because I am on the Intelligence Committee. As reported by Chairman ROBERTS, we have not completed a report. We have not started a report. We have worked very diligently with our staff to interview a hundred witnesses from the intelligence agencies. They have reviewed tens and perhaps thousands of documents, and they are continuing to do so. As Chairman ROBERTS said, there will be information sought from the Director of the CIA, Director George Tenet. So whatever was leaked was not based on fact.

The second thing that bothered me is that what was supposedly a work in the classified confines of the Intelligence Committee had been somehow shared with the press. Now, that is a problem. The President has come down very strongly in saying that he absolutely abhors leakage of classified, sensitive material, as he should. We all should. He said he will not tolerate it in the administration, in the White House, or even in Congress. But it appears to me that somehow in the Intelligence Committee it is leaking like a sieve, and people are saying things that are not true.

So I would caution those who are listening, when you hear about something that is going on in the Intelligence Committee, perhaps you ought to take it with a great big grain of salt.

Chairman ROBERTS and Vice Chairman ROCKEFELLER are conducting these hearings, and all Members of this body can come to Hart 219 and have access to the material if they want to find out what we are working on. But what you hear being discussed is not necessarily relevant to anything that is going on.

What is relevant, and what many people have cited—and I am afraid they have not read—is the work of Dr. David Kay, the Interim Progress Report of the Iraqi Survey Group, the ISG. This is a declassified report from this distinguished person who is heading the intelligence gathering in Iraq. He has been cited as saying: Well, we have found no weapons of mass destruction; therefore, there must not be any.

Well, I would say, by that same reasoning, we have not found Saddam Hussein; so by that reasoning, maybe Saddam Hussein did not exist. But we have seen in the tragedies that have occurred in recent days and weeks in the Sunni Triangle and in Iraq and elsewhere that the protégés, the adherents to Saddam Hussein and Osama bin Laden, continue to carry on their war of terrorism. They are attacking our troops. They are attacking Iraqi civilians. They have attacked the U.N. They have attacked the Red Cross. They are very dangerous, and we know that the battle on terrorism goes on. That is why we have to complete work on the Iraqi supplemental appropriations.

But what has David Kay found? Why hasn't he found any weapons of mass destruction? I might note that it was only this summer, after we had been there several months, that we found a squadron of Russian-made MIG airplanes hidden in the desert. They were buried in the sand.

Well, weapons of mass destruction, chemical or biological weapons, which we know Saddam Hussein has had in the past and has used in the past, could be hidden in a two-car garage, and they could be hidden in much smaller samples.

There is speculation in the media that they could have been taken out of the country, which should really worry us. There is speculation elsewhere as to what may have happened.

But Dr. Kay said, talking about the extensive program of denial and deception engaged in by Saddam Hussein's regime:

From birth all of Iraq's WMD activities were highly compartmentalized within a regime that ruled and kept its secrets through fear and terror and with deception and denial built into each program;

Deliberate dispersal and destruction of material and documentation related to weapons programs began pre-conflict and ran trans-to-post conflict;

In other words, they were concealing, they were denying they had it before the war, during the war, and even after the war.

Post-OIF—

In other words, after Iraqi Freedom—

looting destroyed or dispersed important and easily collectible material and forensic evidence concerning Iraq's WMD program. As the report covers in detail, significant elements of this looting were carried out in a systematic and deliberate manner, with the clear aim of concealing pre-OIF activities of Saddam's regime;

Some WMD personnel crossed borders in the pre/trans-conflict period and may have taken evidence and even weapons-related materials with them. . . .

In other words, what Dr. Kay is saying is, the people involved with Saddam Hussein, his loyal thugs, could have taken the material out of the country. But he says what we have found and what we have discovered are:

dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the United Nations during the inspections that began in late 2000. The discovery of these deliberate concealment efforts have come about both through the admissions of Iraqi scientists and officials concerning information they deliberately withheld and through physical evidence of equipment and activities that ISG has discovered that should have been declared to the UN.

He then goes on to cite many of the things they have found and also discussions and reports on interviews he has had.

For those who wonder what has happened to Saddam Hussein's WMD program, the information already prepared and presented by Dr. Kay should be a good example.

But, Mr. President, I would say that the ISG's progress report is not final. They have made an extensive investigation of Saddam's biological and chemical weapons program, and the work that was going on to restart the nuclear program. But unless we accept the fact that Saddam is somehow reformed, his track record of not just developing but actually using weapons of mass destruction stands as a brutal and tragic fact of history.

It is clear that Saddam Hussein actively deceived the international community and was in clear violation of U.N. Security Council Resolution 1441 and was actively pursuing WMD programs.

That Saddam may have redesigned programs around concealment activities is something this body should find deeply troubling, certainly not grounds, as some would say, to acquit him of any accusation of WMD use or pursuit. Our troops are doing an outstanding job under difficult conditions. They are away from their families in harsh conditions, and they are in harm's way, risking everything. Yet they complain less and bicker less than many here in Washington.

Saddam Hussein and Osama bin Laden-like terrorists know they cannot defeat our brave military men and women on the ground. The only chance they have is to create division here at home in the hope that we will cut and run. They cannot conceive of retaking Baghdad from our troops, so their only chance of victory is here in Washington.

Yesterday we had a very interesting discussion with Tom Friedman of the New York Times, a very seasoned observer, one who doesn't share my political views on a lot of issues. But he has been in Iraq. He knows what is going on, and he believes we did what we had to do. He said it is clear that Saddam Hussein and Osama bin Laden are the motivating forces, the leaders behind these attacks, and that they know that if they can create enough division here at home, that is their one chance of winning. It is almost unthinkable in this day and age that someone would attack the Red Cross, the ultimate humanitarian institution, to try to drive them out of the country so they cannot minister to the suffering of the Iraqi people.

The Iraqi people share our goal, which is to create a free, stable Iraq, independent of Saddam Hussein or the rule of ayatollahs or others who do not tolerate human rights, freedom, and the rights of women. We cannot leave this country in chaos. If we do, Saddam and Osama bin Laden win.

Those who would say pack up and leave would turn over all of the fruits of victory and turn them into the spoils of those who have wreaked such havoc on the country. I believe Mr. Friedman said that when we got into Iraq, we discovered a country that had been devastated back to the stone age. We are working hard to restore security and to bring them out of the stone age. The President has outlined a clear plan. He is asking for our help, $87 billion.

I hope today we can complete efforts on the conference report on the Iraqi supplemental. We need the $66 billion to make sure our troops are protected and adequately well served. We need the other $21 billion as a grant, not as a loan, to go to rebuilding the security forces, the military, the police, to assure that they can maintain stability. We need to turn on the lights and turn on the water so they can get back to making a productive country. We have to pass this bill to give them support, to show Congress is behind them. We need to continue to work to see that Iraqis can control their own destiny.

We have some 55,000 Iraqi policemen. We have 700 Iraqi Army trained. We are training more every day. What we need to do is provide them the resources so they can be the eyes and ears because they, the Iraqi people, and their police and military are the ones best suited to go into the dangerous parts of Baghdad and Fallujah and elsewhere in the Sunni triangle and identify those who are Saddam adherents and Osama adherents and drag them out in the middle of the night and bring them to justice or stop their terrorist activities before they continue to strike innocent Iraqis and international institutions such as the U.N. and the Red Cross, the U.S. Army, and the military who are there.

Hospitals are open. We have people going back to school. Progress is being made. But we have to complete action. We have to provide the assistance to bring Iraq out of the stone age to the point where, with the help of the donations from the U.N. conference in Madrid, they can have the basic infrastructure that will support loans that will enable them to rebuild their oil-producing facilities, to rebuild what was a very fruitful agriculture.

There is hope not only for the Iraqi people but for people throughout the Middle East. If we will translate the victory over the Saddam Hussein government into a victory over the Saddam and Osama bin Laden terrorists who continue to carry the battle to Baghdad, there is hope for freedom for people in the Middle East. That is in our best long-term interest. We are battling against terrorism in Baghdad. Far better we battle in Baghdad than in Boston or Ballwin, MO, or Belton, MO. That is our choice.

The President has outlined a consistent and coherent plan that led to peace, avoided the problems we thought could occur, and now we have to secure the peace.

Make no mistake about it, today, I feel no differently about Saddam and his regime and the threat it posed as the day I voted with 77 of my other colleagues to remove Saddam. The threat he posed was real. There is no question that the world is better off without Saddam, his henchmen, and his two despicable sons who were poised to sustain the legacy of Saddam for another half century.

The key lesson of September 11, 2001, is that in a world of proliferating weapons of mass destruction, we cannot afford to wait until threats become actual attacks. The stakes and risks are just too high and the brutal track record of Saddam is clear.

And clearly, as demonstrated recently by David Kay's interim report, we have seen unequivocally, that Saddam remained a danger to the world up to the last day of his regime.

Mr. Kay stated ''his WMD programs spanned more than two decades, involved thousands of people, billions of dollars''—(billions of dollars, I might add, that belonged to the Iraqi people and should have been reinvested in Iraq's infrastructure) ''and was elaborately shielded by security and deception operations that continued even beyond the end of Operation Iraqi Freedom.''

For months after the passage of U.N. Security Council Resolution 1441, Saddam Hussein continued to violate his obligations to the international community by filing false declarations deceiving the inspectors and terrorizing the Iraqi People.

Mr. Kay stated in his interim report that dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the U.N. during the inspections in late 2002 were discovered. According to his report, the discovery of these concealment efforts were learned primarily through the admission of Iraqi scientists and officials. Some of the examples he cited were:

A clandestine network of laboratories and safehouses within the Iraqi intelligence service existed that contained equipment subject to U.N. monitoring and suitable for continuing CBW research;

A prison laboratory complex, possibly used in human testing of BW agents, that Iraqi officials working to prepare for U.N. inspections were explicitly ordered not to declare to the U.N.

Reference strains of biological organisms concealed in a scientist's home, one of which can be used to produce biological weapons;

A line of UAVs not fully declared;

Documents and equipment hidden in scientist's homes that would have been useful in resuming uranium enrichment by centrifuge and electromagnetic isotope separation;

New research on BW-applicable agents, brucella and congo crimean hemorrhagic fever and continuing work on ricin and aflatoxin were not declared to the U.N.

The ISG has also uncovered thus far the first documented link between Iraq and North Korea, with documents detailing Iraq's attempt to buy equipment from North Korea to make missiles with ranges of up to 1,300 km.

The Iraqi Survey Group's progress report is not final. Extensive investigation of Saddam's biological, chemical, and nuclear weapons programs remains to be done, but unless we accept that Saddam was reformed, his track record of not just developing but actually using wmd stands as a brutal and tragic fact of history. It is clear that Saddam Hussein actively deceived the international community, was in clear violation of UN Security Council Res. 1441 and was actively pursuing wmd programs.

Mr. President, that Saddam may have redesigned programs around concealment is something that this body should find deeply, deeply, troubling—certainly not acquitting, as some seem to be suggesting.

Our troops are doing an outstanding job under very difficult conditions. They are away from their families, in harsh conditions and they are in harm's way risking everything, yet they complain less, and bicker less than many here in Washington

Saddam Hussein and Osama bin Laden-like terrorists know that they cannot defeat our brave military men and women on the ground. The only chance they have is to create division here at home in hope that we will cut and run. They cannot conceive of retaking Baghdad from our troops so their only chance of victory is in Washington.

Our enemies perceive that our failure to respond to the Khobar Towers and the USS *Cole* and our withdrawal from Lebanon and Somalia shows a lack of conviction and a weakness of our resolve.

The terrorists working for Saddam and Osama, who are trying to thwart our efforts by targeting not only our service men and women, but also Iraqi civilians, humanitarian workers, and recently the Red Cross, are trying to break our will and believe that Americans are weak and lack the will to win the peace.

Cowardly terrorists are shooting at our soldiers and innocent civilians, but are aiming at American public opinion and our resolve to complete the mission.

If we leave the country in chaos, Saddam Hussein and Osama bin Laden win. This would not only prevent us from seizing a tremendous opportunity to create a stable, representative government in the heart of the Middle East, but it also would send a signal to terrorists around the world that America is weak and invite future acts of terror against the United States and our allies.

Most all know that we cannot afford to retreat. We must strengthen our resolve and complete the mission in Iraq, with self-governance of that nation as our ultimate end.

Through joint United States/Iraqi operations, we have captured hundreds of foreign fighters and killed a number of them in combat. With each passing day, we are witnessing more and more Iraqis assuming responsibility for the safety and security of their nation. Currently, there are over 85,000,000 Iraqis working to provide security for their country with: 6400 Iraqi border patrol forces that will eventually replace coalition forces at checkpoints along the border; 55,000 Iraqi police that will contribute to a stable society; 18,700 facilities protection service members that will secure power lines, refineries and other key infrastructures that are targets for sabotage; 700 new Iraqi army soldiers that will be a professional force for maintaining peace and stability versus Saddam's instrument of terror and repression; and lastly, over 4,700 Iraq civil defense citizens that will remain in their communities providing valuable local intelligence to coalition and Iraqi forces while receiving on the job training in security patrolling.

The men and women of the U.S. Armed Forces serving so dutifully in Iraq represent America's finest. As the most highly trained, best-equipped fighting force ever assembled, they are executing their mission and achieving success. I recently visited with some of these incredible patriots at Walter Reed to thank them for their patriotic and heroic service. What they and their fellow service men and women still in Afghanistan and Iraq need from us is our support, not just in the form of equipment and supplies, but support and affirmation that Washington believes the mission they are carrying out—the one we voted to authorize by a three to one margin—continues to be necessary to promote peace, stability, and democracy in a world less threatened by terror.

Our service men and women are helping the Iraqi men, women, and children establish a foothold of peace and stability in the region, which will be a catastrophic blow to the terrorists who have joined the fight in Iraq. Our people on the ground get to see first hand the extent to which Saddam destroyed a society—a society of people whom have never until this day had the opportunity to be safe and free. Murder and mass graves are headlines in Washington but they were a way of life under Saddam.

After 9/11, we vowed to stick together and we have. The President asked for our support in a sustained effort which will be measured in years, not months.

He told use that the world had changed and that we would have to change with it. No longer would be in the mode where we would fire one shot then fall back. He realized that the war on terrorism had to be carried to the terrorist—we could not just wait for the next attack.

He has asked Congress and the people to support a sustained effort and he warned that it would be a fight like never before. It will have its ups and its downs. Mistakes will be made and measures will be taken that may not always be popular.

We are fighting an enemy that wears no uniform and swears an allegiance to a radical ideology, not to humanity or a country. One who is willing to kill innocents without the slightest remorse.

It is an unconventional war without borders—and it requires unconventional methods to win it. By taking the fight to the enemy, we have more opportunity to fight on our terms but on their ground—using our best soldiers and spies. So we fight in Baghdad and Bagram so the war is not fought in Boston, Boise, or Bolivar, MO.

I believe that it remains instructive to note that there are two major investigations ongoing in Washington. One, in relation to 9/11, asks why the Government did not act based on imperfect information. The other, in relation to Iraq, asks why the Government did act based on imperfect information. This helps us understand the predicament that any President faces in a hostile world where lives and freedom at stake with intelligence that can almost never be perfect and sometimes can be wrong.

In Afghanistan and Iraq, our people are facing hardship and death. Yet they are getting the job done. We have seen reenlistment ceremonies that are taking place in Iraq by our dedicated service men and women who are committed to staying until their mission is complete.

A central bank and Iraqi currency have been established months ahead of schedule. We went from 0–60,000 trained Iraqi security and military personnel in less than 5 months. Schools, which were formerly weapons storage depots, are open. Electricity has been restored to prewar levels and is delivered not just to Saddam's Bathist friends as before, but to the population at large. Hospitals are open, working, and caring for patients; and the political leadership of the country has begun coalescing. In Afghanistan, where there were once 800,000 boys in school, there are now 2.5 million boys and 1.5 million girls in school. Baghdad, which once got its news only from Saddam, Aljazeera and CNN, now may have more news sources than Washington, DC.

The Marshall Plan after World War II cost almost $80 billion, in 1998 dollars, and we had roughly 100,000 troops in Germany for 4 years after the war. Who at that time asked after Pearl Harbor, how much was it going to cost to defeat the Japanese; who asked how much was it going to cost to defeat the Germans after they sank the Lusitania? The cost of the war on terror is great but it must be weighed against the human tragedy and economic costs of 9/11.

The supplemental appropriations bill that the Congress needs to pass out of conference is necessary to help protect our troops, win the peace and create conditions so that our troops can return home safely and victorious. The same resolution that the Senate voted 77–23 to authorize war almost 1 year ago expressly stated the need to restore a stable, peaceful Persian Gulf. Lets honor that commitment today and pass the supplemental appropriations bill.

We need to let our service men and women complete their mission so they can come home.

I say to our men and women serving here and abroad, to their families at home, and to those Saddam loyalists and terrorists who doubt our will; don't equate public discourse in a free society with weakness. We voted overwhelming to authorize to take the fight to the enemy and we have voted overwhelmingly to support our troops in the field and to help the Iraqi men, women, and children, who were until now, hopeless of living with peace and freedom.

We will not cut and run. We will not let those who have already paid the ultimate price die in vain. We will not turn our backs on the commitments we have made.

Some doubted our ability to turn back Nazism and communism but collectively, we did. Doubters that we can overcome terrorism will be just as wrong now as doubters were then.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Arkansas.

HONORING OUR ARMED FORCES

Mrs. LINCOLN. Mr. President, I have risen on numerous occasions over the last several months to pay tribute to our Nation's troops serving in Iraq, Afghanistan, and across the globe in support of the war on terrorism. Today I would like to add to that ongoing tribute by honoring the troops of the 39th Infantry Brigade or ''the Arkansas Brigade,'' as we know it at home. The 39th was recently mobilized for action in Iraq with troops pulling out this week for training in Fort Hood before a 12-month deployment in the Middle East.

Last weekend I had the honor of attending a send-off ceremony for the 39th Brigade in Little Rock. That ceremony brought together soldiers, families, friends, and loved ones to commemorate the occasion and to wish them the best in their mission. The send-off was not a celebration. In fact, it was a sober occasion. After all, no one relishes the prospect of traveling halfway around the world, far from family, friends, and home, to take on a dangerous but necessary mission.

But along with the sense of sobriety at the ceremony, there was an enormous sense of duty, honor, and pride among these individuals. These men and women recognized that they were taking on a great personal risk, but they also recognized that, in so doing, they are part of a long tradition of American soldiers taking up arms to defend our freedoms and to bring security and stability to the world. As their fathers and grandfathers and great grandfathers fought in the First and Second World Wars, in Korea, Vietnam, the gulf war, and in countless other conflicts in the last century, these men and women are embracing a new historic mission.

The 39th Infantry Brigade is the largest combat command in the Arkansas Army National Guard, with nearly 3,000 troops comprising 47 units from across the State. While this is the first time since World War II that the entire brigade has been activated for overseas service, the 39th has been remarkably active within Arkansas for decades.

At the Governor's behest, the 39th has been quick to respond in the event of State emergencies. When floods, tornadoes, forest fires, ice storms, and drought have struck Arkansas, the members of the 39th have been there to offer their expertise and to lend a hand to communities in need. The 39th has offered assistance to law enforcement in missing persons cases, anticrime efforts, and counterdrug programs. Members of the 39th have offered themselves for countless hours of leadership and volunteer service in their communities, in schools and churches, civic organizations, private businesses, law enforcement, and even elected office.

Consider, for example, the small town of Bradford just a few miles northeast of Little Rock. This town of 800 people is preparing to lose their mayor, their police chief, and the school librarian, all of whom are leaving for Iraq. While these temporary losses may bring temporary hardships, I have every confidence that these communities, Bradford and many others, will pull through.

I am happy to report that Bradford is already coping—Grebe Edens, a 78-year-old former school teacher who serves as the town's recorder and treasurer, will be serving in the mayor's place until he returns.

I ask unanimous consent that an October 24 Washington Post article about how the town of Bradford is coping be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. LINCOLN. Mr. President, this is but one example of the effect this deployment will have on my home State of Arkansas. Many communities in Arkansas will no doubt be able to share similar stories of losing key personnel in the next 18 months.

Furthermore, let us not lose sight of the impact of this deployment on the families of these troops.

I was standing in that auditorium on Sunday visiting with mothers, aunts, daughters, as well as wives and children, and watching their faces with a sense of not knowing what is coming down the pike and yet being so incredibly proud of their loved ones who are serving this great Nation.

I have an October 27 newspaper story written by Stephen Ziegler, editor of the Searcy Daily Citizen in White County, AR.

Mr. Ziegler's story focuses on the troops of the Second Battalion, 153rd Brigade, and their families. Some are newly married, or have young children.

The stories illustrate the mixed emotions that many Arkansans experience

in seeing loved ones, friends, and neighbors leave to serve our great Nation.

Here is one young couple who are expecting a child in May. Here is a school superintendent who has been away from his job for 3 of the last 6 years on account of frequent deployments. Here is a young Army medic whose greatest fear is that he may see a friend die.

But coupled with the uncertainty is a clear sense of dedication and commitment.

I ask unanimous consent that this article from the Daily Citizen be printed in the RECORD following my remarks, so that we may be ever mindful of the effects of war both on those who serve and on those they leave behind.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mrs. LINCOLN. As recent events have made startlingly clear, the situation in Iraq remains dangerous.

It is true that some parts of the country—notably in the south and in the Kurdish north—have achieved a measure of stability and security. To the extent that stability has been achieved in these areas, it has been entirely attributable to the hard work, commitment, and ingenuity of American troops on the ground. We praise them for that.

Unfortunately, it is also true that parts of Iraq remain critically unstable, particularly in the country's central region around Baghdad and Tikrit. With these facts in mind, let us salute the remarkable courage of our men and women who are placing themselves at great risk to serve in bringing security and peace to Iraq. We owe them a tremendous, tremendous debt for this service and sacrifice.

Finally, I would like to once again pay tribute to the troops currently serving in Iraq—roughly 140,000 American troops, with an estimated 5,000 from Arkansas. Many have given their lives to this mission, and many more have been wounded, some quite seriously. Those who remain in Iraq, and those who are preparing to enter into rotation in theater, will be in our thoughts and prayers in the months to come. We pledge to take care of their families and loves ones who are left behind.

We wish our troops safety, we wish them success, and we wish them a swift and safe return to their homes and loved ones as soon as their service is complete.

Thank you, Mr. President.

EXHIBIT I

[From washingtonpost.com, Oct. 24, 2003]

A TOWN'S LEADERS MARCHING OFF TO WAR

(By Lee Hockstader)

BRADFORD, AR.—For months, Paul Bunn had an inkling that his unit of the Arkansas National Guard would be shipped to Iraq, and there were a few things he wanted to get done before he left.

Such as running the drug dealers out of town, ensuring a safe supply of drinking water and compelling his more slovenly constituents to get rid of the junk in their yards—if necessary by fining them.

Bunn, 36, took office in January as the supercharged mayor of Bradford, a one-blinking-stoplight hamlet of cow pastures, low-slung houses, rickety shacks and modest churches set among the rice and soybean fields an hour's drive northeast of Little Rock. His impending departure for the Middle East—Bunn has already reported for training and expects to be in Baghdad early next year—has shaken this town of 800.

So has the scheduled deployment of the police chief, the school librarian and five other townsmen, all members of the 39th Infantry Brigade of the Arkansas National Guard.

''I'd say our town is paying one heck of a price, but to me it's a price worth paying,'' said Bunn, a former Army Special Forces soldier who fought in Panama and the Persian Gulf War.

The deployment of the 39th Infantry Brigade, announced in late September, means about 3,000 Arkansas Guardsmen from 47 units scattered across the state will be going to Iraq early next year as part of a major deployment with the Army's 1st Cavalry Division, based at Fort Hood, Tex. The troops are expected to replace soldiers of the 1st Armored Division who have been serving in Iraq since April.

For Arkansas, the effect is dramatic. Counting 2,000 guardsmen already deployed elsewhere overseas, including in Afghanistan, the departure of the 39th means that more than half the state's 11,000 guardsmen will be serving overseas. Only a handful of other states—Oklahoma, North Carolina Washington—have a similarly large portion of their guardsmen serving overseas, according to the National Guard.

To the extent that Bradford—or at least its leadership—is being decapitated, the town is unusual. But it is also typical of communities that, disproportionately, are sending military men and women to serve in Iraq and other areas of conflict.

''Broadly speaking, [the military] tends to be more rural and more southern,'' said Doug Bandow, who has analyzed the demographics of the U.S. military for the Cato Institute, a think tank. ''But it is also a broadly Middle America, middle-class force.''

The departure of so many prominent citizens is causing ripple effects and dislocations not easily absorbed in so small a rural town. At the town's one school, for instance, the departure of the librarian, Nolan Brown, 57, a grandfather of nine who is a personnel clerk in the Guard, triggered a domino effect in which one new teacher was hired and three others, in the departments of math, science and social studies, were compelled to add or drop courses they had already begun.

At Bradford's somewhat misleadingly named city hall, a one-story red brick building that also houses the police and water departments, Mayor Bunn's powers have been transferred to Greba Edens, 78, a retired schoolteacher whose last specific memory of a combat casualty that touched her life involved a friend's brother—killed in World War II.

''I'm not moving into the mayor's office,'' said Edens, known locally as Miss Greba, the town's recorder-treasurer for 19 years, who by law will assume Bunn's duties until he returns. ''But he made promises that he'd clean up the trashy places around town and try to get rid of some of the drugs, so I guess I'll try to do that.''

Like the mayor and the librarian, the police chief, Josh Chambliss, 28, is expected to be gone from 18 months to two years on duty in Iraq. Chambliss, recently married, had been hoping to start a family, but those plans may be on hold for now. His five-officer police department, which deals mainly with domestic disputes, thefts and a methamphetamine drug problem common in small rural towns, will be led in his absence by Michael Ray, the assistant chief.

Ray, 34, who counts the chief as well as the mayor among his best friends, seems slightly uneasy both at their departure and his own ascendance.

''In the last Gulf War, they were all surrendering to anyone who came along,'' said Ray, whose badge, affixed to his belt, still says assistant chief. ''This time, it's just a whole different ballgame, and there's a good chance that some of [the Americans] aren't coming back.''

Ray's apprehension about the fighting in Iraq is widely shared, even though most people in this resolutely conservative town are quick to say they support the troops as well as President Bush. Many say they want to see the troops ''get over there, get the job done and get home quickly''—intoning their wishes almost like a mantra—and in practically the same breath acknowledge that they see no swift end to the fighting or the U.S. engagement in Iraq.

''We don't want to get into another situation like in Vietnam, of not supporting these people,'' said Larry Robinson, a county veterans services officer. ''You bet we're behind them, and this is really bringing the Iraqi situation right to the front door. But this is a new type of war, and it worries me.''

For his part, Bunn has no illusions about the toll that may result from the 39th Infantry Division's deployment. A sergeant who expects to be a Humvee squad leader in Iraq, Bunn has already bluntly told his two children and two stepchildren, ages 11 to 15, that he and some of his fellow guardsmen may not be coming home alive.

''I'm hard as woodpecker lips when it comes to this, but in this job here there's gonna be body bags coming home and bullets going downrange,'' he said. ''I don't believe in lying to the kids about it.''

Bunn worries nearly as much about what he is leaving behind in Bradford as what he will face in Iraq. He worries about his insulation business, in which he has several hundred thousands of dollars in loans, and whether it will survive his absence. He worries about miss Greba, the stand-in mayor, and whether she will be able to oversee an $800,000 grant from the state that Bunn secured to improve the town's drinking water. He worries about what will happen in the event of tornadoes hitting Arkansas—Bradford lies in the heart of twister country—in the absence of thousands of the state's National Guard troops.

''I'm a wheeler-dealer, and it doesn't bother me to pick up the phone and call the governor,'' Bunn said. ''But I'm not even going to try over there. My job now is to be a soldier and take the guys I got and bring them over there and bring them back safe.''

Yet he also worries about making it back to Bradford for his stepson Bradley's high school graduation in the spring of 2005. And he frets about his friend Chambliss, a staff sergeant in the Guard who has never been in combat.

''Josh to me is a special person,'' Bunn said of his police chief. ''Not too many people that you find who have an innocence about them, and Josh does. . . . That innocence will be shattered, and that's what bothers me.''

Bunn believes he will be prepared for Iraq, but the other guardsmen are much less experienced. Nolan Brown, the school librarian, was in Vietnam during the Tet Offensive of 1968, but he was a clerk in a dental unit at the time, not involved in combat.

The younger men enlisted, in some cases while still in high school, were lured mainly by the Guard's generous provisions for helping pay for college and health insurance. Few imagined they would be heading off to combat anytime soon.

Two of them, both privates in the Guard, wandered into the Bradford school the other day dressed in green fatigues, their hair cropped short. One, Richard Farmer, 21, a supply specialist, joined the Guard a few years ago when he was still in school. The other, Wesley Hodges, 20, an administrative assistant in the Guard, joined shortly thereafter.

Asked if they would have joined then had they known it would mean duty in Iraq, the two shrugged and mumbled an unconvincing ''yeah.''

EXHIBIT II

[From the Daily Citizen, Oct. 27, 2003]

FOCUS ON WHITE COUNTY: CALLED TO DUTY

(By Stephen Zeigler)

White County gave a rousing sendoff Friday at Spring Park in Searcy to the 140 local troops of the 39th Infantry Brigade who begin heading to Fort Hood Tuesday. From there, the troops go to Iraq sometime in March.

There were balloons, hugs and tributes.

But it is the third deployment since 1998 for members of the Second Battalion, 153rd Brigade, who went to Kuwait on the Iraq border in 1999 and then to Egypt in 2001, just returning in August.

It is safe to say they were hoping for an extended time home before being deployed again.

The honor to White County is significant, but so are the sacrifices. Lt. Sgt. Kirk Van Pelt estimates the soldiers' active duty time will be 18 months, including deployment to Iraq for a year.

Many businesses will have to compensate for the loss of valued employees for that period. Many cities will lose public officials, including police and firemen.

Bradford is losing a mayor. The Riverside School District is losing a superintendent.

Some soldiers are newly married. Some are leaving behind pregnant wives. Many families are losing a parent for a time very important in children's lives.

The soldiers themselves face worries about what to expect in Iraq, concerns for their wives and children, and uncertainties about their safety and their friends' safety.

But they are called to duty. Here are just some of their stories.

Command Sergeant Major James ''Larry'' Nowlin, 55, was born in Searcy and now lives in Jonesboro.

''For the first 30 years, the only tours I went on were to Honduras, Panama, and Wales, each for two weeks' training. After 9/11, everything changed,'' Nowlin said.

He has two boys, but doesn't worry too much about them because they are 23 and 19. He does worry about the other families, however.

''We'll be so busy we'll think about our families when we have time, but the time will pass so fast for us. The wives will be pulling the load for the whole family while we're gone. A lot wives are expecting.''

Nowlin has been superintendent of the Riverside School District for six years.

For three of those, he has been gone.

''I always try to e-mail with my students but will probably be limited this time,'' Nowlin said. ''When we were in Egypt I e-mailed with about 60. They want to know what the kids are like there, the culture, the schools. When I got back from Kuwait they'd made me a quilt with messages on it, and they made me a throw when I got back from Egypt.''

His biggest worry is the usual one for officers.

''What I'm scared of is the possibility of losing soldiers. The though of having to notify families that their loved ones might not come back or be disabled is the biggest fear I have. We're fixing to put 3,000 soldiers over there from Arkansas, altogether in one group. That's a concern.''

Staff Sergeant Joshua Stewart, 24, was married in July to Dana Martin from rural White County, where they both went to White County Central school. They now live near Fayetteville in West Fork. Dana is attending the University of Arkansas.

''We got a phone call the unit had been put on duty the day our honeymoon in Pigeon Forge ended,'' Stewart said. ''I wasn't surprised, but I'm not at all eager to go. My enlistment ended last February, but I was involuntarily extended.''

''I wasn't married or thought that I would be soon when I wanted to quit in February.

''It's not what I wanted in the first six months of my marriage but I'm prepared. What we'll face will be different from our training. A lot of weight will bear down on every decision we make. The outcome will be more than a slap on the wrist if we make a mistake.''

Pfc. Tyson Weaver, medic, 20, of Little Rock, has been in the Guard two years and three months. He and his wife Jennifer, 19, were married May 31.

''I had a feeling I was going to be able to come home from training and raise my family,'' said Weaver. ''This was a complete shock to me, but I'm ready to go do my job and come back to my family.''

Weaver says his extended family gave him a party at his grandmother's house a couple of months ago.

''When I was walking out the door in my greens, my grandmother started crying because it's the last time I'll see her for about 18 months. At first I was completely torn up, but then I remembered this is what I signed up to do, so there's no point crying about it. If you're accepting taxpayer money you can't gripe when you're called to do your job.''

Even at 20, Weaver has seen what happened to some veterans of the Vietnam war. He fears being traumatized by what he may see.

''I'm most afraid of changing, of being a different person when I get back. I believe now I'm a happy person. I'm secure and things don't get to me. I'm afraid of coming back a hard-hearted person, cold to my family. That's not who I am.''

Weaver says he will try to keep himself centered with lots of letters and communication back home.

He and Jennifer have a baby girl, Olivia, due Christmas day.

''We're coming home Dec. 20 to Jan. 3, so I'll be there when the baby's born. It tears me up. She'll be walking and talking when I finally get home. But my wife is a very strong person. She'll cope.''

Like many other medics, Weaver fears another thing.

''I'm scared of having to bag one of my buddies.''

Specialist Jeremy Abele, 21, of Bald Knob, has been in the Guard four years. He and his girlfriend Jennifer have been together 14 months.

''I slightly expected it but it hasn't bothered me yet. I won't think about it until I get there. I'm a medic, so I'll probably see things a lot of doctors in a hospital don't see. I'm taking it day by day.''

Abele's 16-year-old brother Derreick was in school Friday in Bald Knob, missing the Spring Park tribute.

''I don't want him to enlist. I don't want him to go through this.''

Sgt. Randall Martin, 27, of Searcy, will turn 27 on Monday. He has been in the guard 7.5 years, went to Kuwait in '99 and Egypt in '02, and is first-year nursing student at ASU-Searcy.

''I wasn't expecting it so soon. You have mixed emotions. You feel good you're selected out of so many units in the nation. But sometimes, it's sad and heartbreaking to miss out on the experience of being there.''

He and his wife Kelly have a child due May 10, to be named Mac if It's a boy, Emma if a girl.

Kelly said, ''I just try to be positive. I know he likes the military and that's what he chooses to do so there's not much I can do about it. I have a great support system in Randall's mom and my grandparents.''

Specialist James Poyner, medic, 26, from Bald Knob, has served 7.5 years and also has just returned from Egypt. His wife Leah was born in Searcy and raised in Bald Knob. They were married in 1998. They, too, heard about the new deployment in July.

''I wasn't expecting it, neither was my wife. These two deployments back-to-back are really difficult. I've got a four-year scholarship to UALR. Now it'll take seven years.''

The timing is as bad for him as for most.

''Leah's upset. We're best friends and it's hard to be away from each other. It's time to start having children, but we don't want to be apart for that.''

Poyner does operations and network administration for a restaurant equipment company in Searcy. His absence will be stress on his boss, John Faucett, and the company, he said, but added that Faucett has been very supportive.

''He's a true patriot, and he says my job will be waiting. It's a great company, and going back to it is something I'll think about every day to keep me going in Iraq.''

Poyner is confident about his readiness.

''I'm in a treatment squad, recently moved from the field. We'll see 80–100 percent of the injuries, and we're not treating strangers, they'll be friends and guys I'm close to. Seeing them go through pain is something I'm trying to be prepared for. This past summer camp a friend went down with heat stroke and stopped breathing. We cut him out of his clothes and doused him with water, and he's OK. When you're doing the treatment you're in a zone doing the work.''

Sgt. Jerome Geroge, 40, has served 17 years, counting two in the Army. He is originally from Holly Grove, moving to Searcy in late 1994.

His wife Bambi is the president of the White County Family Readiness Group. They have four children: Chance, 13; Annie, 12; Hunter, 10; Savanna, 8.

''The last time I was deployed, in Egypt, the loss was apparent in Chance. He didn't get in trouble or anything, but his grades fell. A dad needs to be there to explain things at that age,'' George said.

''I'll miss the holidays, the anniversaries, the birthdays, children's dance recitals and sports. I'll miss part of their childhoods. What'll happen is there's a transition period when you get back. You have to be really careful what you do and say, because the spouse is used to being the total parent figure. It's a transition for the spouse, the kids, everybody.

''When I told the kids, I didn't tell them all at the same time. I told the oldest first, then the next, then we were all together telling the youngest. Let's just say they weren't happy, the wife wasn't happy, but we've done it before and it's what I have to do.''

[From CNN.com, Oct. 5, 2003]

ARKANSAS TOWN'S MAYOR, POLICE CHIEF, LIBRARIAN CALLED TO IRAQ

BRADFORD, AR.—The mayor, police chief and school librarian are all leaving for military duty Monday that is expected to take them to Iraq, and the residents left behind in

this tiny town of 800 are scrambling to fill their roles.

At the local cafe and in school hallways, the callup and what to do about the loss of city leaders is the talk of the town. At city hall, meanwhile, officials have been rushing to prepare paperwork necessary to transfer the mayor's power to a 78-year-old retired school teacher.

The soon-to-be acting police chief says Bradford is just one example of how the war in Iraq has affected small town America.

''One way or another we're going to handle it,'' said Michael Ray, who will become the new police chief, along with his job as a school resources officer. ''It's going to be OK. I'm going to run it the same way as if the chief was here.''

In addition to Mayor Paul Bunn, Chief Josh Chambliss and librarian Nolan Brown, five other citizens of this farm town have received orders to report to Fort Hood, Texas. There, they will prepare for a tour of duty in Iraq that is expected to put them in Iraq by Christmas.

Greba Edens, the town's recorder-treasurer, will take over for the 35-year-old mayor. Previously, she spent 24 years as Bradford's fourth-grade teacher.

''Most of the people on the city council now, she's paddled them before,'' Bunn said.

Edens said she plans to carry on with Bunn's ideas. ''As the mayor says, we're a family here,'' she said.

At the elementary school, Brown was organizing the library ahead of his deployment, He served in Vietnam and has been in the National Guard for 31 years. Now 57, he was hoping to leave the guard at age 60.

''I've got stuff scattered from here to there getting ready,'' he said. ''I want to leave it as if I'm not coming back.''

''The children here, they ask me, 'Are you going? When are you going?''' he said. ''They know there's some turmoil somewhere. I tell them they may not take me because of my age . . . but it would be unwise not to prepare them.''

The school had a going-away party for Brown in the cafeteria, presenting him with a cake that read, ''Our prayers are with you.'' The school will shuffle around teachers to make up for Brown's absence.

After nine years at the school, all the students know him. As he leaves, he shouts a goodbye to his cousin's son in the hallway.

''Tell your Mom, since things have escalated, that I may not get to see her,'' he said to the boy. ''Tell her I'll miss her and love her.''

Brown says he's edgy about his departure, as are his wife and the three children they care for. But he's adamant that he has to give back to a country that gave him an education.

''The U.S. has been very good to me,'' he said, adding he believes citizens need ''to be willing to do whatever it takes to make sure kids in the future have the same opportunities that we have.''

Unlike Brown, who works in a headquarters group, the police chief and the mayor are infantry soldiers responsible for more dangerous security duty.

''I'll make a deal with the president,'' said Bunn, who has fought in Panama and in the Gulf War. ''I'll go over there, but I'm not willing to die. Maybe it's because I've got kids now.''

Bunn could be gone for up to two years. Even if he stays that long, he'll still have over a year left of his term as mayor when he returns.

Chambliss, 28, has been the town's police chief since 2001. He's not worried about Bradford, which is about 70 miles northeast of Little Rock. He said he expects the town's other four officers to continue to man the school crossings and attend all the ball games.

''I'm curious to see what the next 18 months hold, not for me but for Bradford,'' Chambliss said. ''I want to come back into town and see the progress.''

Chambliss said that he's upset to leave his wife. They were planning to start a family soon.

He is spending the rest of his time in Bradford saying goodbye to friends and family. He had lunch at his regular spot, the Front St. Cafe, just down the road from the police station.

The cafe's owner and waitress, Marcia Pressler, said she gave him that day's $4.95 plate special of roast beef, potatoes and carrots on the house.

''It's like a part of your family going off,'' she said. ''I felt like I'm feeding him his last supper.''

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. How much time is remaining?

The PRESIDING OFFICER. Seven and one-half minutes.

Mr. DURBIN. Thank you, Mr. President.

GUARD AND RESERVE

Mr. DURBIN. Mr. President, I salute my colleague from Arkansas for the tribute she made to this unit in her home State of Arkansas. Every one of us in the Senate can tell a similar story. But she tells us so well about the lives that are affected by the activation of Guard and Reserve men and women who leave important lives and careers and step aside to serve their Nation.

That is why it is so troubling that I come to the floor today to report for those who follow the Senate that yesterday in the conference committee of the Appropriations Committee where we met to discuss the $87 billion request of the President, we stripped out a provision which had been adopted on the Senate floor. I would like to describe it to those who want to stand behind the families of those activated Guard and Reserve men and women.

We have 1.2 million Guard and Reserve in the United States. Ten percent of them work for the Federal Government, when they are not serving in the Guard and Reserve. At the present moment, of the 120,000 Federal employees with the Guard and Reserve, 23,000 have been activated. They include some people who are in the unit the Senator from Arkansas just described.

I offered an amendment on the floor that said when you activate a Federal employee to the Guard and Reserve, the Federal Government agency that the person works for will make up any shortfall and any difference in income while that Guard or Reserve person is on active duty. That is not a radical suggestion. There are dozens of State governments and local units of government that already do that, including my home State of Illinois and the City of Chicago.

If you are a Chicago policeman in the Guard and you are activated, the City of Chicago stands behind you and says we will make up the difference in pay if there is a shortfall so that there is no hardship on your family. That amendment passed the floor of the Senate 96 to 3. Yesterday it was stripped out of the conference committee report that is being considered. It is $87 billion.

Every day we hear Senators come to the floor singing the praises, deservedly, of the men and women in uniform to say we stand in solidarity with them and their families as they fight for America. These same Members who come to the floor praising the guardsmen and reservists also voted for my amendment, saying let us hold them harmless if they go off to serve our Nation for 6 months, or 12 months, or 16 months. They all voted for this amendment.

Yesterday, on a party-line vote, with every Republican Senator voting no, they took this provision out of the bill. Many of the same Senators who just a few days ago had voted on the floor for this provision reversed their position and said no, the Federal Government will not set an example and will not make up the difference in pay for those thousands of Federal employees activated in the Guard and Reserve. That is unfair and it is unfortunate. Those who come here to wave the flag about their support for our fighting men and women weren't there yesterday on this crucial vote in this conference committee.

I hope those across America who follow this debate and who may know some of these families affected by this amendment will contact their Senators and tell them it was a grave injustice that we allowed this to occur. It was a real disappointment to me. We could have done the right thing yesterday, but, sadly, we did not.

IRAQ

Mr. DURBIN. Mr. President, I listened earlier to the Senator from Missouri talking about the State of affairs in Iraq. I would like to comment on that very briefly.

If I understood his argument, he said that 6 months after hostilities had ended—at least the military operation as the President described it, and after the efforts of different inspectors and the expenditure of millions of dollars—he believed the fact that Dr. David Kay couldn't produce any evidence whatsoever of weapons of mass destruction did not reflect on statements made by this administration before we invaded Iraq. I think that is clearly wrong.

This has been declassified. We said we knew of 550 sites of weapons of mass destruction in Iraq before we invaded—550 of them. Doesn't it stand to reason that these inspectors would go to those sites first to find the weapons of mass destruction? Isn't it revealing that they have come up with no evidence whatsoever? What a tremendous breakdown in intelligence gathering—that 550 suspected sites have now turned up

to be virtually empty, with no evidence of weapons of mass destruction. How hard a stretch of the imagination is it to think Saddam Hussein, facing an invasion of forces from America and Great Britain, was very cautiously packing into vans all of the weapons of mass destruction and spiriting them out of his country? I don't think that stands to reason.

That is almost as hard to follow as the President's logic yesterday which said that the terrorism and carnage going on in Iraq today is proof positive of the progress we are making. The progress?

Frankly, these sad reports from Iraq evidence the fact that we have not established order in that country to a level where we can assure the people of Iraq, or our troops for that matter, that they are going to be in a safe situation. I have not called for us to cut and run. I do not know many who have. We have to stay the course. We are now there.

As it has been said, when you go into a gift shop, the sign says ''If you break it, you own it.'' We went into Iraq and took control of that situation. Now we are responsible for creating a stable and secure environment, and it will be a great cost over a lengthy period of time.

Just last week, I joined with my colleagues visiting Walter Reed Hospital to meet with some of the wounded soldiers.

I say to those who are stunned to hear each day that we have lost a soldier, or two or three soldiers, not to take lightly those who are wounded. Many of the wounds of these soldiers are grievous. I met one soldier from Ohio who lost the sight in one eye and another soldier from Illinois who had been the victim of a mortar round and is going to struggle to ever walk again. I think he will, but it will be a tremendous struggle and a lot of rehabilitation. To say we have only lost one, two, or three soldiers a day—please look at this in the context of the lives lost and the lives that are seriously injured and diminished by the injuries that are suffered there.

We have to stay the course. Frankly, I find it unfathomable that this conference committee of appropriations yesterday refused to stand behind 23,000 Federal employees who have been activated in Guard and Reserve units, refused to say we will stand with their families and make certain they don't go through economic hardship during the activation period when they are risking their lives for America. Unfortunately, this conference committee walked away from those soldiers yesterday. That is shameful, and it is something we never should have done. I urge my colleagues to think long and hard about this partisan rollcall, which, frankly, reversed a 96-to-3 vote of just a few weeks ago.

I will close by saying it is unfortunate we cannot finish the Foreign Operations appropriations bill today. It is my understanding that the DeWine-Durbin amendment for $289 million for the global AIDS epidemic, which we believe has a sufficient number of votes on the Senate floor to pass, has been threatened by one Republican Senator from Oklahoma who has said he will filibuster the bill and stop the bill on the Senate floor.

We are coming to the close of this session and we need to pass appropriations bills. Threatened filibusters from either side—particularly from the majority side—are not appropriate at this time. I hope that Senator will reconsider.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2800, the foreign operations appropriations bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2800) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

DeWine amendment No. 1966, to increase assistance to combat HIV/AIDS.

McConnell amendment No. 1970, to express the sense of the Senate on Burma.

Feinstein amendment No. 1977, to clarify the definition of HIV/AIDS prevention for purposes of providing funds for therapeutic medical care.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized to offer an amendment.

AMENDMENT NO. 2000

Mr. DORGAN. Mr. President, I call up amendment No. 2000.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2000.

Mr. DORGAN. 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 urge the President to release information regarding sources of foreign support for the 9–11 hijackers)

At the appropriate place, insert the following:

SEC. Sense of the Senate on declassifying portions of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 2001.

(a) FINDINGS.—The Senate finds that—

(1) The President has prevented the release to the American public of 28 pages of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 2001.

(2) The contents of the redacted pages discuss sources of foreign support for some of the September 11th hijackers while they were in the United States.

(3) The Administration's decision to classify this information prevents the American people from having access to information about the involvement of certain foreign governments in the terrorist attacks of September 2001.

(4) The Kingdom of Saudi Arabia has requested that the President release the 28 pages.

(5) The Senate respects the need to keep information regarding intelligence sources and methods classified, but the Senate also recognizes that such purposes can be accomplished through careful selective redaction of specific words and passages, rather than effacing the section's contents entirely.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that in light of these findings the President should declassify the 28-page section of the Jointly Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 2001 that deals with foreign sources of support for the 9–11 hijackers, and that only those portions of the report that would directly compromise ongoing investigations or reveal intelligence sources and methods should remain classified.

This section shall take effect one day after the date of this bill's enactment.

Mr. DORGAN. Mr. President, this is an amendment that I also offered yesterday. I was not able to get a vote on it yesterday because of a ruling that it was nongermane. I have filed a notice that I intend to move to suspend Rule XVI of the Standing Rules of the Senate. I will do that at the end of my presentation. That will give us a vote on this important issue today. Let me describe why I think a vote is necessary and what this issue is.

This issue deals with 9/11, the day on which our country was attacked and thousands of Americans were murdered by terrorists, many of whom came into this country and lived among us and plotted an attack against the World Trade Center; they plotted an attack against the Pentagon and perhaps the U.S. Capitol. They hijacked commercial airliners and used commercial airliners, full of both passengers and fuel, as flying bombs and missiles.

No one in this country will forget the devastation, the loss of life, and the horror of the terrorist attacks committed against the United States on September 11.

We know a fair amount about September 11: who organized it and how it was organized. We know Osama bin Laden has taken credit for it. We know it was planned by Osama bin Laden and a terrorist group called al-Qaida, and they were supported by the Taliban government in Afghanistan. We know a fair amount about the details of that day and the activities of the hijackers. There has been a great deal of discussion about how did it happen—how did it happen that these coordinated attacks by terrorists occurred in this

country without our intelligence community knowing it was going to happen and taking action to prevent it.

As we know as well, from testimony before the Congress and from other information, we had some warnings. The FBI had some warnings. In fact, one FBI agent wrote a memorandum inside the FBI saying he worried about certain people of certain nationalities taking flying lessons, potentially for the purpose of using an airplane for hijacking and as a tool of a terrorist attack. We had other evidence that existed in our intelligence community from both the FBI and CIA.

So there has been a great deal of discussion about how do we find out what we knew, what the agencies knew, what we could have done to prevent these attacks, and what we now know about those who committed the attacks and how to prevent future attacks. That is all very important.

There are a couple of efforts underway. One was an effort before the Congressional Joint Intelligence Committee. They did an inquiry into intelligence community activities before and after the terrorist attacks of September 2001. That inquiry was done and finished with a report that was released this past summer. The report was authorized for release by the Bush administration. It took 9 months to write, 7 months to declassify, and when it was released, we discovered there are 28 pages of that report that are redacted; 28 pages of the report have been classified, so that the American people cannot know what is in that report.

The question is, Why? On behalf of the victims, the victims' families, the American people, I ask, Why would 28 pages of that report be classified and unavailable to be seen by the American people? We are told it contains information about other governments, or another government and its activity with respect to some of these issues. We are told by some that there were areas of support by another government, or governments, for the terrorists themselves as they began to work and put together the resources and plan these attacks against the United States. If that is the case, the question is, Which governments? Who was involved? How were they involved? Are those governments still involved in supporting terrorists who would strike at the heart of this country and kill innocent Americans?

Why do we not have the right to know if governments supported some of the terrorists who were working and planning and gathering the resources to attack this country? If another government provided any support for that, do we not have a right as an American people to know that? Why has that information been classified?

Mr. LEAHY. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. LEAHY. The Senator from North Dakota makes eminent good sense in what he is saying. I recall at the time this report came out—and we all remember the blacked-out pages—the country of Saudi Arabia sent over emissaries to say—and I don't know how serious they were about this—would you release this.

My question to the Senator is: Insofar as the majority of hijackers at the time of September 11 were from Saudi Arabia, and insofar as we know from press accounts—not classified material but press accounts—that a lot of funding of al-Qaida came from Saudi Arabia and may still be coming from Saudi Arabia, don't you think it would be helpful to know if Saudi Arabia is mentioned in this blacked-out part and to what extent, considering the fact that they apparently have turned a blind eye to some of the terrorists who are striking at the United States?

Mr. DORGAN. Well, Mr. President, the Senator from Vermont is absolutely correct. The American people ought to have a right to know if a foreign government was involved in helping provide resources for and planning for attacks against this country. We have a right to know that.

The amendment I am offering is a sense-of-the-Senate amendment that says to the President: Declassify this material. What is so sensitive that the American people can't know whether a foreign government was involved in the planning and providing the resources for a terrorist attack against this country?

Let me tell you what the chairman and the ranking member—a Republican and a Democrat—of the Intelligence Committee said on this issue when these 28 pages were withheld from the American people. Senator SHELBY, the ranking member then on the Intelligence Committee, a Republican, said:

I went back and read every one of those pages thoroughly. My judgment is that 95 percent of that information could be declassified and become uncensored so the American people would know.

Asked why this section was blacked out, Senator SHELBY said:

I think it might be embarrassing to international relations.

Senator GRAHAM said:

During the negotiation that was held with the administration prior to the release of the documents, we had submitted a counteroffer indicating what we thought were legitimate areas of national security with the rest of the section dealing with foreign governments to be released to the public. The counteroffer was not accepted. The administration took the position that the totality of this section dealing with the role of foreign governments should remain censored and beyond the view of the American people.

Question of Senator GRAHAM:

Can you give us some idea of how big the counteroffer was?

Senator GRAHAM said:

It was in the range, which Senator SHELBY indicated he thought it was, of 28 pages that represented genuine national security interests which was 95 percent open and 5 percent continued classified.

I am not trying to embarrass anybody with this amendment. I just feel strongly that when the 9/11 commission—that is the inquiry by our Intelligence Committee—was completed and the effort was released, to have 28 pages censored or classified and to be told the American people can't see it leads me to ask the question, Why? Why? If there was another government—and all the indications are there was another government—involved in providing support for the terrorists who attacked this country, the American people have a right to know it. They have a right to know who it was, what were the circumstances, why, how do they justify that.

The Saudi Government has asked that this information be declassified and released. The Saudi Government has asked that. Most of the speculation, of course, is the questions about Saudi support of terrorism, as my colleague from Vermont just described. But the Saudi Government has asked this be declassified so they can respond to it in public.

There is no basis, no good reason for this to remain censored and classified. My sense-of-the-Senate amendment asks the President to declassify that portion of the 28 pages. As Senator SHELBY and Senator GRAHAM have described, 95 percent of it does not deal with national security or our national security interests, and would not compromise our interests.

Senator SCHUMER is a cosponsor of this amendment, and Senator LIEBERMAN is a cosponsor as well.

My hope is we will certainly have a vote on this amendment this morning. My amendment will require a vote under suspension of the rules.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am not a member of the Intelligence Committee. I lead off by saying this has absolutely nothing whatsoever to do with the Foreign Operations appropriations bill. We should not be having this debate at this time.

With regard to the issue, there are those on the Intelligence Committee who can speak to it with much more knowledge than I. I am hopeful some of them will come over in the course of this debate. Let me make the point the war on terrorism is an ongoing operation. The decision to classify this material was reached between the intelligence authorizing committees and the executive branch.

Declassifying the information should be carefully considered. For example, would it place in jeopardy the lives of U.S. men and women fighting the war on terrorism? Declassifying material without careful consideration could also have a chilling effect on the sources of information in the war on terrorism, including individuals and foreign governments. It is conceivable

both individuals and foreign governments would be afraid their participation and cooperation in the war on terrorism would become public.

The main point I wish to make is there may be a time and place for this debate, but it is not on this bill. I hope once the debate is concluded we will make a decision not to proceed down this path at this time on this measure.

I retain the remainder of my time.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. Nine minutes 31 seconds.

Mr. DORGAN. Mr. President, I say to my colleague from Kentucky, there is, in fact, an ongoing war on terrorism, and it is critically important for this country, it is important that we be successful in preventing terrorist attacks against this country. It is important we be successful in hunting down those in the world who are planning terrorist attacks against this country and destroying their network of support. But with respect to the ongoing war against terrorism, it is critically important, in my judgment, for this country to know, Are there foreign governments that have supported terrorists? Are there foreign governments that have given active financial support to those who attacked this country on September 11, 2001? If so, who are they? How would it compromise any interest of this country or, for that matter, any other country under any other circumstances to disclose a discussion in the inquiry that was done, a painstaking inquiry that was done about another government that provided support to terrorists that murdered thousands of Americans. The American people have a right to know that information.

I know the easiest way to withhold information is to always claim there is some important sensitive information that would compromise some intelligence operation. The people in the best position to know that would be the chairman and the ranking member of the committee who did the inquiry, Senator GRAHAM and Senator SHELBY, a Democrat and a Republican. Both of them have already made a judgment about this. They said: Nonsense, this won't compromise anything. Ninety-five percent, they said, of these 28 pages of censored, redacted material could and should be made available to the American public without compromising anything.

If one is wondering whether this compromises anything, I say go to the experts, go to the authorizing committee, go to the Republican and Democrat who were chairman and vice chairman of the committee and ask them and they will tell you they did not support redacting this material, censoring this material, and classifying this material. It came from the White House. It wasn't fair to the American people to do that.

If there is another government that provided active support—financial support and comfort and assistance—to those who decided to commit acts of terror against this country and murder thousands of innocent Americans, then, in my judgment, by God, the American people have a right to know that. The American people have a right to know that, and classifying 28 pages that describe the circumstances in which another government may well have provided support to terrorists attacking this country is wrongheaded, in my judgment.

If, in fact, this inquiry describes that, another important question exists: Is the country that provided support—financial assistance and comfort and aid—to the terrorists who attacked this country in 2001 still providing support and aid? Do they still have adjuncts in that society, in that government, that provide support and comfort to terrorists? We have a right to know that as well.

In my judgment, withholding information from the American people is, in most cases, a bad decision. If it is necessary because it would compromise something that is important with respect to the intelligence community, I understand that. But the two experts would be the chairman and the vice chairman of the committee who decided to launch the inquiry. And those two Senators, Senator SHELBY and Senator GRAHAM, have already spoken on this issue.

They have said 95 percent of that information ought to be made available.

I will make one additional point. Talk to the families of the people who were murdered on 9/11 and ask them, if a foreign government was involved in supporting acts of terror against this country, whether they think that information ought to be made available to the American people or ought to be censored, classified, and out of the reach of the American people.

They will say we ought to disinfect this whole area by deciding to give everybody as much information as possible about what happened on 9/11, not by closing the books and pulling the veil and deciding whether to keep information from the American people. As I indicated, even the Saudi Government that has been so much the subject of this speculation wants this information made available, and it ought to be made available.

My sense of the Senate is very simple. It says to the President: Declassify this. Now, I also understand that this is a foreign operations bill. It is an appropriations bill. There is no good time to have a sense-of-the-Senate resolution come to the Senate floor, I suppose, if one does not support declassifying this information. But this amendment does not interrupt the foreign operations bill. I support that bill. I am happy to work with the chairman and ranking member who, I think, have done a remarkable job on that bill.

It seems to me we have a right to have a vote in the Senate about whether this information ought to be made available to the American people, whether it ought to be declassified, uncensored, and the question answered: Is there another government or governments that participated with the terrorists by providing aid, comfort, and financial support to terrorists who committed acts of terror against this country?

That is information, in my judgment, the American people deserve to have.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. MCCONNELL. I ask unanimous consent that the time running without debate be charged equally to both sides.

Mr. DORGAN. Mr. President, reserving the right to object, how much time remains on each side?

The PRESIDING OFFICER. There is 3 minutes 58 seconds, and 18 minutes 17 seconds for the majority.

Mr. DORGAN. Mr. President, I have a few additional comments at some point. If the Senator from Kentucky has other speakers—I had expected a couple of other speakers. I do not know whether that will occur before the end of the time. I believe we have 40 minutes, 20 minutes equally divided.

Mr. MCCONNELL. I say to my friend from North Dakota, I had expected some speakers as well. So I think we have the same dilemma. I just do not want to delay the vote, and I assume the Senator from North Dakota would rather not delay it as well.

Mr. DORGAN. I do not intend to delay the vote. It is fine to have a quorum call and have it equally divided, but let me ask the courtesy of the Senator that if we get to the point where we have 6 or 8 minutes remaining, that I would have the opportunity for a couple of those minutes so that we could close and have a debate at the end.

Mr. MCCONNELL. I ask unanimous consent that notwithstanding the other consent just asked for, Senator DORGAN have 2 minutes before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. How much time remains on this side?

The PRESIDING OFFICER. There is 3 minutes 54 seconds.

Mr. DORGAN. Mr. President, I yield 3 minutes to the Senator from Florida, Mr. GRAHAM.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent to be

added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM of Florida. Mr. President, for a year, a joint committee of members of the House and Senate Intelligence Committee carried out their responsibilities to do a comprehensive review of what happened before September 11 as it related to the role of the intelligence community; what happened after September 11, particularly in utilizing the information that was gathered around that tragic event; and then what recommendations for some fundamental change that would enhance the capacity of the intelligence community to reduce the prospect of another 9/11. That report took over 800 pages. It had some 19 recommendations for action.

After the report was completed, it was submitted to the administration—primarily the CIA, the FBI, and the White House—for review as to whether there were any elements of that report that would be categorized as national security and therefore not for general public distribution.

The section of the report that received the greatest degree of such classification, in fact, virtually 100 percent, was the section that related to the role of foreign governments in the events leading up to 9/11, and then how well our responsible agencies had followed the leads and tracked the developments and events before 9/11; after 9/11 for purposes of potential criminal prosecution, for purposes of understanding why we had these gaps; and what the role of foreign governments would be; for the purpose of diplomatic or other policies that might be instituted vis-a-vis countries that were found to have been cooperative or even complicitous in the actions of the 9/11 terrorists, and then finally to form the recommendations of what fundamental change should be made.

The consequences of denying to the American people access to that section of the report are many. No. 1, the American people have been denied the opportunity to know fully what, in fact, happened. No. 2, they have been denied the opportunity to hold accountable those agencies or individuals who were responsible for that inappropriate action by a foreign government. We have been unable to hold the State Department accountable for its action vis-a-vis the foreign governments. Finally, we have taken a substantial amount of the impetus and sense of urgency out of the recommendations for fundamental reform. In fact, the Senate has yet to hold a first hearing on the 19 recommendations that we made.

I think it is of the highest order of concern for the American people that they have access to this information and then they will do with that information what they believe is appropriate. But ignorance and secrecy serves no national purpose. I urge the adoption of this amendment to urge the President to reevaluate the decision to censure the chapter on the role of foreign governments.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. There remain 11 minutes 50 seconds.

Mr. MCCONNELL. I yield to the distinguished chairman of the Intelligence Committee however many minutes of the 11 that he so desires.

Mr. ROBERTS. Mr. President, I rise in opposition to the Dorgan amendment. I do not think that rule XVI should be waived. The amendment is not germane.

More important, speaking as chairman of the Senate Intelligence Committee, I believe this amendment is unwise. I think it will damage our Nation's efforts in the ongoing war against terrorism.

I, for one, and members of the committee, have read the 28 pages from the Joint Inquiry Report and have been briefed by the FBI and the CIA. As a matter of fact, the distinguished Senator from Florida indicated that we have not even had hearings. That is not correct. We have had hearings. We had hearings in mid-September as to whether or not it would be in our national security interest to release the 28 pages.

I would also say to all Members, if they have a keen interest in this—and I am aware of the legislation, or I am aware of the letter that went to the President signed by a great many Senators asking for the 28 pages to be made public—as I said at the time, please come to the Intelligence Committee and we will provide you the information on the 28 pages. Some of the very people who are sponsoring amendments have not read the 28 pages.

I wish they would do so. It is my firm position—firm position—in order to protect our national security, specifically the methods and the sources and ongoing investigations, that this so-called redacted material should not be released to the public. I think it would endanger lives.

I am not in a position to discuss the specifics in regard to the urgent pleas and the warnings that were provided to us by the FBI during this hearing. But I think I can speak for a majority of the Intelligence Committee who thought this was not a good idea and certainly would be counterproductive to our national interest.

I might add that one of the statements I heard as I entered the floor was from the distinguished former chairman of the Intelligence Committee. He is somebody I admire, whose advice and counsel and friendship is very important to me. Senator ROCKEFELLER, who is the distinguished vice chairman of the committee, and I have agreed that we will hold hearings in the next session of Congress on the recommendations of the 9/11 Commission. Some I agree with, some I don't.

We were going to make this year the year of modernization and/or reform in regard to the intelligence community, but something interrupted that. It was called a war—the war against global terrorism. In addition, we were going to make an inquiry as to the credibility and the timeliness of the intelligence prior to going to war in Iraq. It is not that we have not wanted to do these things. It is that the schedule of the committee has been taken up almost exclusively by those two subjects, plus our weekly threat briefings of which I know the Senator from Florida is certainly aware.

So we will have hearings on the 9/11 Commission recommendations. We made that promise to the families of the victims. But if we disclose the information that compromises the close cooperation we have from our allies in the war on terrorism, and much better cooperation today than before then these same allies may choose not to support us in the future. That is another concern.

Again, from the standpoint of endangering sources, methods, ongoing investigations, and, yes, lives—and I think I am speaking for a majority of the Intelligence Committee that has had a hearing on this, has taken a hard look at it—I strongly urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I want to make sure I don't have a misunderstanding with the Senator from North Dakota. Did he wish to speak right at the end, before the vote, essentially? My understanding is we are ready to yield back the time over here.

Mr. President, I yield the remainder of our time on this side and ask unanimous consent the Senator from North Dakota be given 2 minutes, and at the end that we proceed to a vote on or in relation to the amendment.

The PRESIDING OFFICER. Without objection, the Senator from North Dakota is recognized for 2 minutes.

Mr. DORGAN. Mr. President, I thank the Senator from Kentucky for his courtesy.

Let me say to my colleague on the Intelligence Committee, the chairman of the House Permanent Select Committee on Intelligence, PORTER GOSS; Senator SHELBY of Alabama, the past vice chairman; the past chairman of the Intelligence Committee here in the Senate, Senator GRAHAM—all have indicated that at least some of this redacted classified material should be

made available. But they have taken that position with no success. I would expect the two former chairmen of the committees and the vice chairman would not take that position if they believed it would compromise intelligence sources and methods.

Let me quote, if I might, Bill Harvey, a member of the Family Steering Committee for the 9/11 independent commission. He lost his wife on 9/11. She was killed in the Trade Center. He is pretty critical of both the White House and Congress.

The White House's refusal to produce the 28 pages is just one more example of its manipulation of intelligence for political purposes, but the Congress's reluctance to remedy the situation by declassifying the redacted information is equally troubling. The United States of America deserves to know the true nature of its supposed allies, and the families of the victims of the September 11 attacks deserve to know what our Government new about the terrorists that took their lives.

That is the key. After this commission has completed its work, the inquiry is complete, and we have knowledge and information about whether another government provided financial support and other support to terrorists who attacked this country, do we have a right to know who that government is, which government it is, and whether that government still provides support to terrorists who still would like to commit an act of terrorism against this country and who would like to murder innocent Americans?

The American people have a right to know what is in that redacted portion of the report. If there is 5 percent of it, as Senator SHELBY and Senator GRAHAM have suggested, that ought to be withheld, I understand that. But if the bulk, as they have indicated, ought to be made available to the American people, I believe it ought to be made available now.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky is recognized to make a point of order.

Mr. MCCONNELL. Mr. President, I make a point of order that the amendment is not germane under the requirements of rule XVI.

Mr. DORGAN. Mr. President, I move to suspend rule XVI of the standing rules of the Senate during consideration of H.R. 2800 for the consideration of amendment No. 2000.

Mr. MCCONNELL. Mr. President, 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 the motion to suspend rule XVI of the standing rules of the Senate in relation to amendment No. 2000.

The clerk will call the roll.

The assistant legislative clerk proceeded to called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), 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 yeas and nays resulted—yeas 43, nays 54, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—43

Akaka	Dorgan	McCain
Baucus	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Graham (FL)	Nelson (FL)
Boxer	Harkin	Nelson (NE)
Breaux	Hollings	Pryor
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Sarbanes
Clinton	Kohl	Schumer
Conrad	Landrieu	Specter
Corzine	Lautenberg	Stabenow
Daschle	Leahy	Wyden
Dayton	Levin	
Dodd	Lincoln	

NAYS—54

Alexander	DeWine	Lugar
Allard	Dole	McConnell
Allen	Domenici	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Nickles
Bond	Feinstein	Roberts
Brownback	Fitzgerald	Rockefeller
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Campbell	Grassley	Shelby
Chafee	Gregg	Smith
Chambliss	Hagel	Snowe
Cochran	Hatch	Stevens
Coleman	Hutchison	Sununu
Collins	Inhofe	Talent
Cornyn	Inouye	Thomas
Craig	Kyl	Voinovich
Crapo	Lott	Warner

NOT VOTING—3

Edwards	Kerry	Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 54. Two-thirds of the Senators voting not having voted in the affirmative, the motion to suspend rule XVI pursuant to notice previously given in writing is rejected. The point of order is sustained and the amendment falls.

HEALTHY FORESTS RESTORATION ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 1904, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

[H.R. 1904

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

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Healthy Forests Restoration Act of 2003''.

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

[Sec. 1. Short title; table of contents.
[Sec. 2. Purpose.
[TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LANDS
[Sec. 101. Definitions.
[Sec. 102. Authorized hazardous fuels reduction projects.
[Sec. 103. Prioritization for communities and watersheds.
[Sec. 104. Environmental analysis.
[Sec. 105. Special Forest Service administrative review process.
[Sec. 106. Special requirements regarding judicial review of authorized hazardous fuels reduction projects.
[Sec. 107. Injunctive relief for agency action to restore fire-adapted forest or rangeland ecosystems.
[Sec. 108. Rules of construction.
[TITLE II—BIOMASS
[Sec. 201. Findings.
[Sec. 202. Definitions.
[Sec. 203. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and petroleum-based product substitutes.
[Sec. 204. Reporting requirement.
[TITLE III—WATERSHED FORESTRY ASSISTANCE
[Sec. 301. Findings and purpose.
[Sec. 302. Establishment of watershed forestry assistance program.
[TITLE IV—INSECT INFESTATIONS
[Sec. 401. Definitions, findings, and purpose.
[Sec. 402. Accelerated information gathering regarding bark beetles, including Southern pine beetles, hemlock woolly adelgid, emerald ash borers, red oak borers, and white oak borers.
[Sec. 403. Applied silvicultural assessments.
[Sec. 404. Relation to other laws.
[Sec. 405. Authorization of appropriations.
[TITLE V—HEALTHY FORESTS RESERVE PROGRAM
[Sec. 501. Establishment of healthy forests reserve program.
[Sec. 502. Eligibility and enrollment of lands in program.
[Sec. 503. Conservation plans.
[Sec. 504. Financial assistance.
[Sec. 505. Technical assistance.
[Sec. 506. Safe harbor.
[Sec. 507. Authorization of appropriations.
[TITLE VI—MISCELLANEOUS PROVISIONS
[Sec. 601. Forest stands inventory and monitoring program to improve detection of and response to environmental threats.

[SEC. 2. PURPOSE.

[The purpose of this Act is—

[(1) to reduce the risks of damage to communities, municipal water supplies, and some at-risk Federal lands from catastrophic wildfires;

[(2) to authorize grant programs to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, petroleum-based product substitutes and other commercial purposes;

[(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

[(4) to promote systematic information gathering to address the impact of insect infestations on forest and rangeland health;

[(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

[(6) to protect, restore, and enhance degraded forest ecosystem types in order to promote the recovery of threatened and endangered species as well as improve biological diversity and enhance carbon sequestration.

[TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LANDS

[SEC. 101. DEFINITIONS.

[In this title:

[(1) AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECT.—The term ''authorized hazardous fuels reduction project'' means a hazardous fuels reduction project described in subsection (a) of section 102, subject to the remainder of such section, that is planned and conducted using the process authorized by section 104.

[(2) CONDITION CLASS 2.—The term ''condition class 2'', with respect to an area of Federal lands, refers to the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled ''Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management'' (RMRS–87), dated April 2000, under which—

[(A) fire regimes on the lands have been moderately altered from their historical range;

[(B) there exists a moderate risk of losing key ecosystem components from fire;

[(C) fire frequencies have departed (either increased or decreased) from historical frequencies by one or more return interval, which results in moderate changes to fire size, frequency, intensity, severity, or landscape patterns; and

[(D) vegetation attributes have been moderately altered from their historical range.

[(3) CONDITION CLASS 3.—The term ''condition class 3'', with respect to an area of Federal lands, refers to the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (2), under which—

[(A) fire regimes on the lands have been significantly altered from their historical range;

[(B) there exists a high risk of losing key ecosystem components from fire;

[(C) fire frequencies have departed from historical frequencies by multiple return intervals, which results in dramatic changes to fire size, frequency, intensity, severity, or landscape patterns; and

[(D) vegetation attributes have been significantly altered from their historical range.

[(4) DAY.—The term ''day'' means a calendar day, except that, if a deadline imposed by this title would expire on a nonbusiness day, the deadline will be extended to the end of the next business day.

[(5) DECISION DOCUMENT.—The term ''decision document'' means a decision notice or a record of decision, as those terms are used in applicable regulations of the Council on Environmental Quality and the Forest Service Handbook.

[(6) FEDERAL LANDS.—The term ''Federal lands'' means—

[(A) National Forest System lands; and

[(B) public lands administered by the Secretary of the Interior, acting through the Bureau of Land Management.

[(7) HAZARDOUS FUELS REDUCTION PROJECT.—The term ''hazardous fuels reduction project'' refers to the measures and methods described in the definition of ''appropriate tools'' contained in the glossary of the Implementation Plan.

[(8) IMPLEMENTATION PLAN.—The term ''Implementation Plan'' means the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the conference report for the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106–646).

[(9) INTERFACE COMMUNITY AND INTERMIX COMMUNITY.—The terms ''interface community'' and ''intermix community'' have the meanings given those terms on page 753 of volume 66 of the Federal Register, as published on January 4, 2001.

[(10) MUNICIPAL WATER SUPPLY SYSTEM.—The term ''municipal water supply system'' means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, or other surface facilities and systems constructed or installed for the impoundment, storage, transportation, or distribution of drinking water for a community.

[(11) SECRETARY CONCERNED.—The term ''Secretary concerned'' means the Secretary of Agriculture with respect to National Forest System lands and the Secretary of the Interior with respect to public lands administered by the Bureau of Land Management. Any reference in this title to the ''Secretary concerned'', the ''Secretary of Agriculture'', or the ''Secretary of the Interior'' includes the designee of the Secretary concerned.

[(12) THREATENED AND ENDANGERED SPECIES HABITAT.—The term ''threatened and endangered species habitat'' means Federal lands identified in the listing decision or critical habitat designation as habitat for a threatened species or an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

[SEC. 102. AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.

[(a) AUTHORIZED PROJECTS.—Subject to the remainder of this section, the Secretary concerned may utilize the process authorized by section 104 to plan and conduct hazardous fuels reduction projects on any of the following Federal lands:

[(1) Federal lands located in an interface community or intermix community.

[(2) Federal lands located in such proximity to an interface community or intermix community that there is a significant risk that the spread of a fire disturbance event from those lands would threaten human life and property in the interface community or intermix community.

[(3) Condition class 3 or condition class 2 Federal lands located in such proximity to a municipal water supply system, or to a perennial stream feeding a municipal water supply system, that a significant risk exists that a fire disturbance event would have substantial adverse effects on the water quality of the municipal water supply, including the risk to water quality posed by erosion following such a fire disturbance event.

[(4) Condition class 3 or condition class 2 Federal lands identified by the Secretary concerned as an area where windthrow or blowdown, or the existence or threat of disease or insect infestation, pose a significant threat to forest or rangeland health or adjacent private lands.

[(5) Federal lands not covered by paragraph (1), (2), (3), or (4) that contain threatened and endangered species habitat, but only if—

[(A) natural fire regimes on such lands are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or its habitat in a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or in a decision document under such section determining a species to be an endangered species or a threatened species or designating critical habitat;

[(B) the project will provide enhanced protection from catastrophic wildfire for the species or its habitat; and

[(C) the Secretary complies with any applicable guidelines specified in the species recovery plan prepared under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

[(b) RELATION TO AGENCY PLANS.—An authorized hazardous fuels reduction project shall be planned and conducted in a manner consistent with the land and resource management plan or land use plan applicable to the Federal lands covered by the project.

[(c) ACREAGE LIMITATION.—Not more than a total of 20,000,000 acres of Federal lands may be included in authorized hazardous fuels reduction projects.

[(d) EXCLUSION OF CERTAIN FEDERAL LANDS.—The Secretary concerned may not plan or conduct an authorized hazardous fuels reduction project that would occur on any of the following Federal lands:

[(1) A component of the National Wilderness Preservation System.

[(2) Federal lands where, by Act of Congress or Presidential proclamation, the removal of vegetation is prohibited or restricted.

[(3) Wilderness Study Areas.

[SEC. 103. PRIORITIZATION FOR COMMUNITIES AND WATERSHEDS.

[As provided for in the Implementation Plan, the Secretary concerned shall give priority to authorized hazardous fuel reduction projects that provide for the protection of communities and watersheds.

[SEC. 104. ENVIRONMENTAL ANALYSIS.

[(a) IN GENERAL.—Except as otherwise provided in this title, the Secretary concerned shall plan and conduct authorized hazardous fuels reduction projects in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) and any other applicable laws. The Secretary concerned shall prepare an environmental assessment or an environmental impact statement for each authorized hazardous fuels reduction project.

[(b) DISCRETIONARY AUTHORITY TO ELIMINATE ALTERNATIVES.—In the case of an authorized hazardous fuels reduction project, the Secretary concerned is not required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared for the proposed agency action pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

[(c) PUBLIC NOTICE AND MEETING.—

[(1) PUBLIC NOTICE.—The Secretary concerned shall provide notice of each authorized hazardous fuels reduction project in accordance with applicable regulations and administrative guidelines.

[(2) PUBLIC MEETING.—During the planning stage of each authorized hazardous fuels reduction project, the Secretary concerned shall conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal lands in which the authorized hazardous fuels reduction project will be conducted. The Secretary concerned shall provide advance notice of the date and time of the meeting.

[(d) PUBLIC COLLABORATION.—In order to encourage meaningful public participation in the identification and development of authorized hazardous fuels reduction projects, the Secretary concerned shall facilitate collaboration among governments and interested persons during the formulation of each authorized fuels reduction project in a manner consistent with the Implementation Plan.

[(e) ENVIRONMENTAL ANALYSIS AND PUBLIC COMMENT.—In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines in effect on the date of the enactment of this Act, the Secretary concerned shall provide an opportunity for public input during the preparation of any environmental assessment or environmental impact statement for proposed agency action for an authorized hazardous fuels reduction project.

[(f) DECISION DOCUMENT.—The Secretary concerned shall sign a decision document for each authorized hazardous fuels reduction project and provide notice of the decision document.

[(g) PROJECT MONITORING.—As provided for in the Implementation Plan, the Secretary concerned shall monitor the implementation of authorized hazardous fuels reduction projects.

[SEC. 105. SPECIAL FOREST SERVICE ADMINISTRATIVE REVIEW PROCESS.

[(a) DEVELOPMENT OF ADMINISTRATIVE PROCESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to establish an administrative process that will serve as the sole means by which a person described in subsection (b) can seek administrative redress regarding an authorized hazardous fuels reduction project.

[(b) ELIGIBLE PERSONS.—To be eligible to participate in the administrative process developed pursuant to subsection (a) regarding an authorized hazardous fuels reduction project, a person must have submitted specific and substantive written comments during the preparation stage of that authorized hazardous fuels reduction project. The Secretary of Agriculture shall ensure that, during the preparation stage of each authorized hazardous fuels reduction project, notice and comment is provided in a manner sufficient to permit interested persons a reasonable opportunity to satisfy the requirements of this subsection.

[(c) RELATION TO APPEALS REFORM ACT.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note), does not apply to an authorized hazardous fuels reduction project.

[SEC. 106. SPECIAL REQUIREMENTS REGARDING JUDICIAL REVIEW OF AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.

[(a) FILING DEADLINE.—

[(1) TIME LIMIT ESTABLISHED FOR FILING.—Notwithstanding any other provision of law, to be timely, an action in a court of the United States challenging an authorized hazardous fuels reduction project shall be filed in the court before the end of the 15-day period beginning on the date on which the Secretary concerned publishes, in the local paper of record, notice of the final agency action regarding the authorized hazardous fuels reduction project. This time limitation supersedes any notice of intent to file suit requirement or filing deadline otherwise applicable to a challenge under any provision of law.

[(2) WAIVER PROHIBITED.—The Secretary concerned may not agree to, and a district court may not grant, a waiver of the requirements of this subsection.

[(b) DURATION OF PRELIMINARY INJUNCTION.—

[(1) DURATION; EXTENSION.—Any preliminary injunction granted regarding an authorized hazardous fuels reduction project shall be limited to 45 days. A court may renew the preliminary injunction, taking into consideration the goal expressed in subsection (c) for the expeditious resolution of cases regarding authorized hazardous fuels reduction projects.

[(2) SUBMISSION OF INFORMATION.—As part of a request to renew a preliminary injunction granted regarding an authorized hazardous fuels reduction project, the parties shall present the court with an update on any changes that may have occurred during the period of the injunction to the forest or rangeland conditions that the authorized hazardous fuels reduction project is intended to address.

[(3) CONGRESSIONAL NOTIFICATION.—In the event of the renewal of a preliminary injunction regarding an authorized hazardous fuels reduction project, the Secretary concerned shall submit notice of the renewal to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

[(c) EXPEDITIOUS COMPLETION OF JUDICIAL REVIEW.—Congress intends and encourages any court in which is filed a lawsuit or appeal of a lawsuit concerning an authorized hazardous fuels reduction project to expedite, to the maximum extent practicable, the proceedings in such lawsuit or appeal with the goal of rendering a final determination on jurisdiction, and if jurisdiction exists, a final determination on the merits, within 100 days from the date the complaint or appeal is filed.

[SEC. 107. INJUNCTIVE RELIEF FOR AGENCY ACTION TO RESTORE FIRE-ADAPTED FOREST OR RANGELAND ECOSYSTEMS.

(a) COVERED PROJECTS.—This section applies with respect to a motion for an injunction in an action brought against the Secretary concerned under section 703 of title 5, United States Code, that involves an agency action on Federal lands, including an authorized hazardous fuels reduction project, that is necessary to restore a fire-adapted forest or rangeland system.

[(b) INJUNCTIVE RELIEF.—When considering a motion described in subsection (a), in determining whether there would be harm to the defendant from the injunction and whether the injunction would be in the public interest, the court reviewing the agency action shall—

[(1) balance the impact to the ecosystem of the short-term and long-term effects of undertaking the agency action against the short-term and long-term effects of not undertaking the agency action; and

[(2) give weight to a finding by the Secretary concerned in the administrative record of the agency action concerning the short-term and long-term effects of undertaking the agency action and of not undertaking the agency action, unless the court finds that the finding was arbitrary and capricious.

[SEC. 108. RULES OF CONSTRUCTION.

[(a) RELATION TO OTHER AUTHORITY.—Nothing in this title shall be construed to affect, or otherwise bias, the use by the Secretary concerned of other statutory or administrative authorities to plan or conduct a hazardous fuels reduction project on Federal lands, including Federal lands identified in section 102(e), that is not planned or conducted using the process authorized by section 104.

[(b) RELATION TO LEGAL ACTION.—Nothing in this title shall be construed to prejudice or otherwise affect the consideration or disposition of any legal action concerning the Roadless Area Conservation Rule, part 294 of title 36, Code of Federal Regulations, as amended in the final rule and record of decision published in the Federal Register on January 12, 2001 (66 Fed. Reg. 3244).

[TITLE II—BIOMASS

[SEC. 201. FINDINGS.

[Congress finds the following:

[(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest and rangeland fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

[(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

[(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest and rangeland health by creating a mosaic of species-mix and age distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

[(4) The by-products of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities.

[(5) The United States should—

[(A) promote economic and entrepreneurial opportunities in using by-products removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

[(B) develop and expand markets for traditionally underused wood and biomass as an outlet for by-products of preventive treatment activities.

[SEC. 202. DEFINITIONS.

[In this title:

[(1) BIOMASS.—The term ''biomass'' means trees and woody plants, including limbs, tops, needles, and other woody parts, and by-products of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

[(A) to reduce hazardous fuels; or

[(B) to reduce the risk of or to contain disease or insect infestation.

[(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

[(3) PERSON.—The term ''person'' includes—

[(A) an individual;

[(B) a community (as determined by the Secretary concerned);

[(C) an Indian tribe;

[(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

[(E) a nonprofit organization.

[(4) PREFERRED COMMUNITY.—The term ''preferred community'' means—

[(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

[(i) has a population of not more than 50,000 individuals; and

[(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

[(B) any county that—

[(i) is not contained within a metropolitan statistical area; and

[(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

[(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

[(A) the Secretary of Agriculture with respect to National Forest System lands; and

[(B) the Secretary of the Interior with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands.

[SEC. 203. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, AND PETROLEUM-BASED PRODUCT SUBSTITUTES.

[(a) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

[(1) IN GENERAL.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

[(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

[(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

[(b) VALUE ADDED GRANT PROGRAM.—

[(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to add value to biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

[(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

[(3) GRANT AMOUNT.—A grant under this subsection may not exceed $100,000.

[(c) RELATION TO OTHER ENDANGERED SPECIES AND RIPARIAN PROTECTIONS.—The Secretary concerned shall comply with applicable endangered species and riparian protections in making grants under this section. Projects funded using grant proceeds shall be required to comply with such protections.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $25,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

[SEC. 204. REPORTING REQUIREMENT.

[(a) REPORT REQUIRED.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the grant programs authorized by section 203.

[(b) CONTENTS OF REPORT.—The report shall include the following:

[(1) An identification of the size, type, and the use of biomass by persons that receive grants under section 203.

[(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

[(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

[TITLE III—WATERSHED FORESTRY ASSISTANCE

[SEC. 301. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds the following:

[(1) There has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management.

[(2) It is commonly recognized that the proper stewardship of forest lands is essential to sustaining and restoring the health of watersheds.

[(3) Forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes its restoration worthy of special focus.

[(4) Strengthened education, technical assistance, and financial assistance to nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

[(b) PURPOSE.—The purpose of this title is to—

[(1) improve landowner and public understanding of the connection between forest management and watershed health;

[(2) encourage landowners to maintain tree cover on their property and to utilize tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

[(3) enhance and complement forest management and buffer utilization for watersheds, with an emphasis on urban watersheds;

[(4) establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

[(5) provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, as well as conserves and improves forested lands and potentially forested lands through technical, financial, and educational assistance to qualifying individuals and entities; and

[(6) maximize the proper management and conservation of wetland forests and to assist in their restoration as necessary.

[SEC. 302. ESTABLISHMENT OF WATERSHED FORESTRY ASSISTANCE PROGRAM.

[The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5 the following new section:

[''SEC. 6. WATERSHED FORESTRY ASSISTANCE.

[''(a) GENERAL AUTHORITY AND PURPOSE.—The Secretary, acting through the Forest Service, may provide technical, financial, and related assistance to State foresters and equivalent State officials for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested lands and potentially forested lands.

[''(b) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

[''(1) IN GENERAL.—The Secretary, in cooperation with State foresters or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical assistance to protect water quality, as described in paragraph (2).

[''(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

[''(A) to build and strengthen watershed partnerships that focus on forested landscapes at the local, State, and regional levels;

[''(B) to provide State forestry best-management practices and water quality technical assistance directly to nonindustrial private forest landowners;

[''(C) to provide technical guidance to land managers and policy makers for water quality protection through forest management;

[''(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

[''(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

[''(3) IMPLEMENTATION.—The program of technical assistance shall be implemented by State foresters or equivalent State officials.

[''(c) WATERSHED FORESTRY COST-SHARE PROGRAM.—

[''(1) IN GENERAL.—The Secretary shall establish a watershed forestry cost-share program to be administered by the Forest Service and implemented by State foresters or equivalent State officials. Funds or other support provided under such program shall be made available for State forestry best-management practices programs and watershed forestry projects.

[''(2) WATERSHED FORESTRY PROJECTS.—The State forester or equivalent State official of a State, in coordination with the State Forest Stewardship Coordinating Committee established under section 19(b) for that State, shall annually make awards to communities, nonprofit groups, and nonindustrial private forest landowners under the program for watershed forestry projects described in paragraph (3).

[''(3) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

[''(A) the use of trees as solutions to water quality problems in urban and rural areas;

[''(B) community-based planning, involvement, and action through State, local and nonprofit partnerships;

[''(C) application of and dissemination of monitoring information on forestry best-

management practices relating to watershed forestry;

[''(D) watershed-scale forest management activities and conservation planning; and

[''(E) the restoration of wetland (as defined by the States) and stream-side forests and the establishment of riparian vegetative buffers.

[''(4) COST-SHARING.—Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project. Other Federal funding sources may be used to cover a portion of the remaining project costs, but the total Federal share of the costs may not exceed 90 percent. The non-Federal share of the costs of a project may be in the form of cash, services, or other in-kind contributions.

[''(5) PRIORITIZATION.—The State Forest Stewardship Coordinating Committee for a State shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

[''(6) WATERSHED FORESTER.—Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State best-management practice forester to lead statewide programs and coordinate small watershed-level projects.

[''(d) DISTRIBUTION.—

[''(1) IN GENERAL.—The Secretary shall devote at least 75 percent of the funds appropriated for a fiscal year pursuant to the authorization of appropriations in subsection (e) to the cost-share program under subsection (c) and the remainder to the task of delivering technical assistance, education, and planning on the ground through the State Forester or equivalent State official.

[''(2) SPECIAL CONSIDERATIONS.—Distribution of these funds by the Secretary among the States shall be made only after giving appropriate consideration to—

[''(A) the acres of nonindustrial private forestland and highly erodible land in each State;

[''(B) each State's efforts to conserve forests;

[''(C) the acres of forests in each State that have been lost or degraded or where forests can play a role in restoring watersheds; and

[''(D) the number of nonindustrial private forest landowners in each State.

[''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of the fiscal years 2004 through 2008.''.

[TITLE IV—INSECT INFESTATIONS

[SEC. 401. DEFINITIONS, FINDINGS, AND PURPOSE.

[(a) DEFINITIONS.—In this title:

[(1) APPLIED SILVICULTURAL ASSESSMENT.—The term ''applied silvicultural assessment'' means any vegetative or other treatment, for the purposes described in section 402, including timber harvest, thinning, prescribed burning, and pruning, as single treatment or any combination of these treatments.

[(2) FEDERAL LANDS.—The term ''Federal lands'' means—

[(A) National Forest System lands; and

[(B) public lands administered by the Secretary of the Interior, acting through the Bureau of Land Management.

[(3) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

[(A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System lands; and

[(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

[(4) 1890 INSTITUTIONS.—The term ''1890 Institution'' means a college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

[(b) FINDINGS.—Congress finds the following:

[(1) High levels of tree mortality due to insect infestation result in—

[(A) increased fire risk;

[(B) loss of old growth;

[(C) loss of threatened and endangered species;

[(D) loss of species diversity;

[(E) degraded watershed conditions;

[(F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and

[(G) decreased timber values.

[(2) Bark beetles destroy hundreds of thousands of acres of trees each year. In the West, over 21,000,000 acres are at high risk of bark beetle infestation and in the South over 57,000,000 acres are at risk across all land ownerships. Severe drought conditions in many areas of the South and West will increase risk of bark beetle infestations.

[(3) The hemlock woolly adelgid is destroying streamside forests throughout the mid-Atlantic and Appalachian region, threatening water quality and sensitive aquatic species, and posing a potential threat to valuable commercial timber lands in Northern New England.

[(4) The emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests as a emerald ash borer infestation is almost always fatal to the affected trees. This pest threatens to destroy over 692,000,000 ash trees in forests in Michigan and Ohio alone, and between five and ten percent of urban street trees in the Upper Midwest.

[(5) Epidemic populations of Southern pine beetle are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. In 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in beetle populations.

[(6) These epidemic outbreaks of Southern pine beetle have forced private landowners to harvest dead and dying trees, in both rural areas and increasingly urbanized settings.

[(7) According to the Forest Service, recent outbreaks of the red oak borer in Arkansas have been unprecedented, with almost 800,000 acres infested at population levels never seen before.

[(8) Much of the damage from the red oak borer has taken place in National forests, and the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources.

[(9) Previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application, and there has not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments.

[(10) Only through the rigorous funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests.

[(11) Funding and implementation of an initiative to combat forest pest infestations should not come at the expense of supporting other programs and initiatives of the Secretary concerned.

[(c) PURPOSE.—It is the purpose of this title—

[(1) to require the Secretary concerned to develop an accelerated basic and applied assessment program to combat infestations by bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers;

[(2) to enlist the assistance of universities and forestry schools, including Land Grant Colleges and Universities and 1890 Institutions, to carry out the program; and

[(3) to carry out applied silvicultural assessments.

[SEC. 402. ACCELERATED INFORMATION GATHERING REGARDING BARK BEETLES, INCLUDING SOUTHERN PINE BEETLES, HEMLOCK WOOLLY ADELGIDS, EMERALD ASH BORERS, RED OAK BORERS, AND WHITE OAK BORERS.

[(a) INFORMATION GATHERING.—The Secretary concerned shall establish, acting through the Forest Service and United States Geological Survey, as appropriate, an accelerated program—

[(1) to plan, conduct, and promote comprehensive and systematic information gathering on bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers, including an evaluation of—

[(A) infestation prevention and control methods;

[(B) effects of infestations on forest ecosystems;

[(C) restoration of the forest ecosystem efforts;

[(D) utilization options regarding infested trees; and

[(E) models to predict the occurrence, distribution, and impact of outbreaks of bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers;

[(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers on Federal lands and State and private lands; and

[(3) to disseminate the results of such information gathering, treatments, and strategies.

[(b) COOPERATION AND ASSISTANCE.—The Secretary concerned shall establish and carry out the program in cooperation with scientists from universities and forestry schools, State agencies, and private and industrial land owners. The Secretary concerned shall designate universities and forestry schools, including Land Grant Colleges and Universities and 1890 Institutions, to assist in carrying out the program.

[SEC. 403. APPLIED SILVICULTURAL ASSESSMENTS.

[(a) ASSESSMENT EFFORTS.—For information gathering purposes, the Secretary concerned may conduct applied silvicultural assessments on Federal lands that the Secretary concerned determines, in the discretion of the Secretary concerned, is at risk of infestation by, or is infested with, bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers. Any applied silvicultural assessments carried out under this section shall be conducted on not more than 1,000 acres per assessment.

[(b) LIMITATIONS.—

[(1) EXCLUSION OF CERTAIN AREAS.—Subsection (a) does not apply to—

[(A) a component of the National Wilderness Preservation System;

[(B) Federal lands where, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited; or

[(C) congressionally designated wilderness study areas.

[(2) CERTAIN TREATMENT PROHIBITED.—Subsection (a) does not authorize the application of insecticides in municipal watersheds and associated riparian areas.

[(3) ACREAGE LIMITATION.—Applied silvicultural assessments may be implemented on not more than 250,000 acres using the authorities provided by this title.

[(4) PEER REVIEW.—Each applied silvicultural assessment under this title, prior to being carried out, shall be peer reviewed by scientific experts selected by the Secretary concerned, which shall include non-Federal experts. The Secretary concerned may use existing peer review processes to the extent they comply with the preceding sentence.

[(c) PUBLIC NOTICE AND COMMENT.—

[(1) PUBLIC NOTICE.—The Secretary concerned shall provide notice of each applied silvicultural assessment proposed to be carried out under this section in accordance with applicable regulations and administrative guidelines.

[(2) PUBLIC COMMENT.—During the planning stage of each applied silvicultural assessment proposed to be carried out under this section, the Secretary concerned shall provide an opportunity for public input.

[(d) CATEGORICAL EXCLUSION.—Applied silvicultural assessments carried out under this section are deemed to be categorically excluded from further analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary concerned need not make any findings as to whether the project, either individually or cumulatively, has a significant effect on the environment.

[SEC. 404. RELATION TO OTHER LAWS.

[The authorities provided to the Secretary concerned by this title are supplemental to their respective authorities provided in any other law.

[SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

[There is authorized to be appropriated for fiscal years 2004 through 2008 such sums as may be necessary to carry out this title.

[TITLE V—HEALTHY FORESTS RESERVE PROGRAM

[SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RESERVE PROGRAM.

[(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish the healthy forests reserve program as a program within the Forest Service for the purpose of protecting, restoring, and enhancing degraded forest ecosystems to promote the recovery of threatened and endangered species as well as improve biodiversity and enhance carbon sequestration.

[(b) COOPERATION.—The Secretary of Agriculture shall carry out the healthy forests reserve program in cooperation with the Secretary of the Interior, acting through the United States Fish and Wildlife Service.

[SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN PROGRAM.

[(a) ELIGIBLE LANDS.—The Secretary of Agriculture, in consultation with the Secretary of the Interior, shall designate rare forest ecosystems to be eligible for the healthy forests reserve program. The following lands are eligible for enrollment in the healthy forests reserve program:

[(1) Private lands whose enrollment will protect, restore, enhance, or otherwise measurably increase the likelihood of recovery of an endangered species or threatened species in the wild.

[(2) Private lands whose enrollment will protect, restore, enhance, or otherwise measurably increase the likelihood of the recovery of an animal or plant species before the species reaches threatened or endangered status, such as candidate, State-listed species, rare, peripheral, and special concern species.

[(b) OTHER CONSIDERATIONS.—In enrolling lands that satisfy the criteria in paragraph (1) or (2) of subsection (a), the Secretary of Agriculture shall give additional consideration to those lands whose enrollment will also improve biological diversity and increase carbon sequestration.

[(c) ENROLLMENT BY WILLING OWNERS.—The Secretary of Agriculture shall enroll lands in the healthy forests reserve program only with the consent of the owner of the lands.

[(d) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the healthy forests reserve program shall not exceed 1,000,000 acres.

[(e) METHODS OF ENROLLMENT.—Lands may be enrolled in the healthy forests reserve program pursuant to a 10-year cost-share agreement, a 30-year easement, or a permanent easement with buyback option. The extent to which each enrollment method is used shall be based on the approximate proportion of owner interest expressed in that method in comparison to the other methods.

[(f) ENROLLMENT PRIORITY.—The Secretary of Agriculture shall give priority to the enrollment of lands that, in the sole discretion of the Secretary, will provide the best opportunity to resolve conflicts between the presence of an animal or plant species referred to in paragraph (1) or (2) of subsection (a) and otherwise lawful land use activities.

[SEC. 503. CONSERVATION PLANS.

[(a) PLAN REQUIRED.—Lands enrolled in the healthy forests reserve program shall be subject to a conservation plan, to be developed jointly by the land owner and the United States Fish and Wildlife Service. The conservation plan shall include a description of the land-use activities that are permissible on the enrolled lands.

[(b) INVOLVEMENT BY OTHER AGENCIES AND ORGANIZATIONS.—A State fish and wildlife agency, State forestry agency, State environmental quality agency, and other State conservation agencies and nonprofit conservation organizations may assist in providing technical or financial assistance, or both, for the development and implementation of conservation plans.

[(c) COST EFFECTIVENESS.—The conservation plan shall maximize the environmental benefits per dollar expended.

[SEC. 504. FINANCIAL ASSISTANCE.

[(a) PERMANENT EASEMENT WITH BUYBACK OPTION.—

[(1) PAYMENT AMOUNT.—In the case of land enrolled in the healthy forests reserve program using a permanent easement with a buyback option, the Secretary of Agriculture shall pay the owner of the land an amount equal to—

[(A) the fair market value of the enrolled land less the fair market value of the land encumbered by the easement; plus

[(B) the actual costs of the approved conservation practices or the average cost of approved practices, as established by the Secretary.

[(2) BUYBACK OPTION.—Beginning on the 50th anniversary of the enrollment of the land, and every 10th-year thereafter, the owner shall be able to purchase the easement back from the United States at a rate equal to the fair market value of the easement plus the costs, adjusted for inflation, of the approved conservation practices.

[(b) 30-YEAR EASEMENT.—In the case of land enrolled in the healthy forests reserve program using a 30-year easement, the Secretary of Agriculture shall pay the owner of the land an amount equal to—

[(1) 75 percent of the fair market value of the land less the fair market value of the land encumbered by the easement; plus

[(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices, as established by the Secretary.

[(c) 10-YEAR AGREEMENT.—In the case of land enrolled in the healthy forests reserve program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to—

[(1) 75 percent of the actual costs of the approved conservation practices; or

[(2) 75 percent of the average cost of approved practices, as established by the Secretary.

[(d) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

[SEC. 505. TECHNICAL ASSISTANCE.

[The Forest Service and the United States Fish and Wildlife Service shall provide landowners with technical assistance to comply with the terms of agreements and easements under the healthy forests reserve program and conservation plans.

[SEC. 506. SAFE HARBOR.

[In implementing the healthy forests reserve program, the Secretary of the Interior shall provide safe harbor or similar assurances, through section 7 or other authorities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), consistent with the implementing regulations of the United States Fish and Wildlife Service, to landowners who enroll land in the healthy forests reserve program when such enrollment will result in a net conservation benefit for listed species.

[SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated $15,000,000 for each of the fiscal years 2004 through 2008 to carry out this title.

[TITLE VI—MISCELLANEOUS PROVISIONS

[SEC. 601. FOREST STANDS INVENTORY AND MONITORING PROGRAM TO IMPROVE DETECTION OF AND RESPONSE TO ENVIRONMENTAL THREATS.

[(a) IN GENERAL.—The Secretary of Agriculture shall carry out a comprehensive program to inventory, monitor, characterize, assess, and identify forest stands (with emphasis on hardwood forest stands) and potential forest stands—

[(1) in units of the National Forest System (other than those units created from the public domain); and

[(2) on private forest land, with the consent of the owner of the land.

[(b) ISSUES TO BE ADDRESSED.—In carrying out the program, the Secretary shall address issues including—

[(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, and weather-related risks and other episodic events);

[(2) loss or degradation of forests;

[(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

[(4) quantification of carbon uptake rates; and

[(5) management practices that focus on preventing further forest degradation.

[(c) EARLY WARNING SYSTEM.—In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

[(1) isolate and treat a threat before the threat gets out of control; and

[(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 2004 through 2008.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Healthy Forests Restoration Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LAND

Sec. 101. Definitions.
Sec. 102. Authorized hazardous fuels reduction projects.
Sec. 103. Prioritization for communities and watersheds.
Sec. 104. Environmental analysis.
Sec. 105. Special Forest Service administrative review process.
Sec. 106. Special requirements regarding judicial review of authorized hazardous fuels reduction projects.
Sec. 107. Standard for injunctive relief for agency action to restore fire-adapted forest or rangeland ecosystems.
Sec. 108. Effect of title.

TITLE II—BIOMASS

Sec. 201. Findings.
Sec. 202. Definitions.
Sec. 203. Grants to improve commercial value of forest biomass for electric energy, useful heat, transportation fuels, compost, value-added products, and petroleum-based product substitutes.
Sec. 204. Reporting requirement.
Sec. 205. Improved biomass use research program.
Sec. 206. Rural revitalization through forestry.

TITLE III—WATERSHED FORESTRY ASSISTANCE

Sec. 301. Findings and purposes.
Sec. 302. Watershed forestry assistance program.
Sec. 303. Tribal watershed forestry assistance.

TITLE IV—INSECT INFESTATIONS AND RELATED DISEASES

Sec. 401. Findings and purpose.
Sec. 402. Definitions.
Sec. 403. Accelerated information gathering regarding forest-damaging insects.
Sec. 404. Applied silvicultural assessments.
Sec. 405. Relation to other laws.
Sec. 406. Authorization of appropriations.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM

Sec. 501. Establishment of healthy forests reserve program.
Sec. 502. Eligibility and enrollment of lands in program.
Sec. 503. Restoration plans.
Sec. 504. Financial assistance.
Sec. 505. Technical assistance.
Sec. 506. Protections and measures
Sec. 507. Involvement by other agencies and organizations.
Sec. 508. Authorization of appropriations.

TITLE VI—PUBLIC LAND CORPS

Sec. 601. Purposes.
Sec. 602. Definitions.
Sec. 603. Public Land Corps.
Sec. 604. Nondisplacement.
Sec. 605. Authorization of appropriations.

TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

Sec. 701. Purpose
Sec. 702. Definitions.
Sec. 703. Rural community forestry enterprise program.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Forest inventory and management.
Sec. 802. Program for emergency treatment and reduction of nonnative invasive plants.
Sec. 803. USDA National Agroforestry Center.
Sec. 804. Upland Hardwoods Research Center.
Sec. 805. Sense of Congress regarding enhanced community fire protection.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to reduce the risks of damage to communities, municipal water supplies, and certain at-risk Federal land from catastrophic wildfires;

(2) to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuels, and petroleum-based product substitutes, and for other commercial purposes;

(3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;

(4) to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health;

(5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and

(6) to protect, restore, and enhance forest ecosystem components—

(A) to promote the recovery of threatened and endangered species;

(B) to improve biological diversity; and

(C) to enhance productivity and carbon sequestration.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEDERAL LAND.—The term ''Federal land'' means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C 1609(a))) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

TITLE I—HAZARDOUS FUELS REDUCTION ON FEDERAL LAND

SEC. 101. DEFINITIONS.

In this title:

(1) AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECT.—The term ''authorized hazardous fuels reduction project'' means a hazardous fuels reduction project on Federal land described in section 102(a) conducted in accordance with sections 103 and 104.

(2) CONDITION CLASS 2.—The term ''condition class 2'', with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled ''Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management'' (RMRS–87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(3) CONDITION CLASS 3.—The term ''condition class 3'', with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (2) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(4) DAY.—The term ''day'' means—

(A) a calendar day; or

(B) if a deadline imposed by this title would expire on a nonbusiness day, the end of the next business day.

(5) DECISION DOCUMENT.—The term ''decision document'' means a decision notice or record of decision, as those terms are used in applicable regulations of the Council on Environmental Quality and the Forest Service Handbook.

(6) HAZARDOUS FUELS.—The term ''hazardous fuels'' means vegetation (dead or alive) in the forest or rangeland ecosystem that—

(A) is in excess of historic conditions or management goals; and

(B) can cause wildfires.

(7) HAZARDOUS FUELS REDUCTION PROJECT.—The term ''hazardous fuels reduction project'' means the measures and methods described in the definition of ''appropriate tools'' contained in the glossary of the Implementation Plan.

(8) IMPLEMENTATION PLAN.—The term ''Implementation Plan'' means the Implementation Plan for the 10-year Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, which was developed pursuant to the Department of the Interior and Related Agencies Appropriations Act, 2001 (Public Law 106–291) (including any subsequent revision to the Plan).

(9) INTERFACE COMMUNITY.—The term ''interface community'' has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(10) INTERMIX COMMUNITY.—The term ''intermix community'' has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(11) MUNICIPAL WATER SUPPLY SYSTEM.—The term ''municipal water supply system'' means the source watersheds, reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water for a community.

(12) RESOURCE MANAGEMENT PLAN.—The term ''resource management plan'' means—

(A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 3(1)(A) under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan prepared for 1 or more units of the public land described in section 3(1)(B) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(13) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 3(1)(A); and

(B) the Secretary of the Interior, with respect to public lands described in section 3(1)(B).

(14) THREATENED AND ENDANGERED SPECIES HABITAT.—The term ''threatened and endangered species habitat'' means Federal land identified in—

(A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a designation of critical habitat of the species under that Act; or

(C) a recovery plan prepared for the species under that Act.

SEC. 102. AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.

(a) AUTHORIZED PROJECTS.—

(1) IN GENERAL.—The Secretary may conduct hazardous fuels reduction projects on—

(A) Federal land located in an interface community or intermix community;

(B) Federal land located in such proximity to an interface community or intermix community that there is a significant risk that the spread of a fire disturbance event from that land would threaten human life or property in proximity to or within the interface community or intermix community;

(C) condition class 3 or condition class 2 Federal land located in such proximity to a municipal watershed, water supply system or a stream feeding a municipal water supply system that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including the risk to water quality posed by erosion following such a fire disturbance event;

(D) condition class 3 or condition class 2 Federal land on which windthrow or blowdown, ice storm damage, or the existence or threat of disease or insect infestation, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent private land;

(E) Federal land not covered by subparagraph (A), (B), (C), or (D) that contains threatened and endangered species habitat, if—

(i) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(ii) the project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(iii) the Secretary complies with any applicable guidelines specified in any recovery plan described in clause (i).

(2) CLASSIFICATION.—The Secretary shall classify appropriate land described in paragraph (1)(D) impacted by windthrow or blowdown, ice storm damage, or the existence or threat of disease or insect infestation as condition class 3 or condition class 2 Federal land.

(b) RELATION TO AGENCY PLANS.—An authorized hazardous fuels reduction project shall be conducted in a manner consistent with the resource management plan applicable to the Federal land covered by the project.

(c) ACREAGE LIMITATION.—Not more than a total of 20,000,000 acres of Federal land may be included in authorized hazardous fuels reduction projects.

(d) EXCLUSION OF CERTAIN FEDERAL LAND.—The Secretary may not conduct an authorized hazardous fuels reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is prohibited or restricted; or

(3) a Wilderness Study Area.

SEC. 103. PRIORITIZATION FOR COMMUNITIES AND WATERSHEDS.

As provided for in the Implementation Plan, the Secretary shall give priority to authorized hazardous fuel reduction projects that provide for the protection of communities and watersheds.

SEC. 104. ENVIRONMENTAL ANALYSIS.

(a) HAZARDOUS FUELS REDUCTION PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this title, the Secretary shall conduct authorized hazardous fuels reduction projects in accordance with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.); and

(B) other applicable laws.

(2) ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENT.—The Secretary shall prepare an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2))) for each authorized hazardous fuels reduction project.

(b) ALTERNATIVES.—The Secretary is not required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared in accordance with subsection (a)(2).

(c) PUBLIC NOTICE AND MEETING.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each authorized hazardous fuels reduction project in accordance with applicable regulations and administrative guidelines.

(2) PUBLIC MEETING.—During the preparation stage of each authorized hazardous fuels reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuels reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(d) PUBLIC COLLABORATION.—In order to encourage meaningful public participation during preparation of authorized hazardous fuels reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuels reduction project in a manner consistent with the Implementation Plan.

(e) ENVIRONMENTAL ANALYSIS AND PUBLIC COMMENT.—In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public input during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuels reduction project.

(f) DECISION DOCUMENT.—The Secretary shall sign a decision document for authorized hazardous fuels reduction projects and provide notice of the final agency actions.

(g) PROJECT MONITORING.—In accordance with the Implementation Plan, the Secretary shall monitor the implementation of authorized hazardous fuels reduction projects.

SEC. 105. SPECIAL FOREST SERVICE ADMINISTRATIVE REVIEW PROCESS.

(a) DEVELOPMENT OF ADMINISTRATIVE REVIEW PROCESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate final regulations to establish an administrative review process that will serve as the sole means by which a person described in subsection (b) can seek administrative review regarding a proposed hazardous fuels reduction project.

(b) ELIGIBLE PERSONS.—

(1) IN GENERAL.—To be eligible to participate in the administrative review process established under subsection (a), a person shall submit specific and substantive written comments during the notice and comment stage of the authorized hazardous fuels reduction project.

(2) NOTICE AND COMMENT.—The Secretary of Agriculture shall ensure that, during the preparation stage of each authorized hazardous fuels reduction project, notice and comment is provided in a manner sufficient to permit interested persons a reasonable opportunity to comply with this subsection.

(c) RELATION TO APPEALS REFORM ACT.—Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note), does not apply to an authorized hazardous fuels reduction project.

SEC. 106. SPECIAL REQUIREMENTS REGARDING JUDICIAL REVIEW OF AUTHORIZED HAZARDOUS FUELS REDUCTION PROJECTS.

(a) FILING DEADLINE.—

(1) TIME LIMIT ESTABLISHED FOR FILING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, to be timely, an action in a court of the United States challenging an authorized hazardous fuels reduction project shall be filed in the court before the end of the 15-day period beginning on the date on which the Secretary provides notice of the final agency action regarding the authorized hazardous fuels reduction project.

(B) APPLICABILITY.—The time limitation under subparagraph (A) supersedes any requirement regarding notice of intent to file a lawsuit, or filing deadline, otherwise applicable to an action challenging an authorized hazardous fuels reduction project under any provision of law.

(2) WAIVER PROHIBITED.—The Secretary may not agree to, and a court of the United States may not grant, a waiver of the requirements of this subsection.

(b) DURATION OF PRELIMINARY INJUNCTION.—

(1) DURATION; EXTENSION.—

(A) DURATION.—Any preliminary injunction, or injunction pending appeal, granted by a court of the United States regarding an authorized hazardous fuels reduction project shall be limited to 45 days.

(B) EXTENSION.—A court may renew the preliminary injunction or injunction pending appeal, taking into consideration the goal expressed in subsection (c) for the expeditious resolution of cases regarding authorized hazardous fuels reduction projects.

(2) SUBMISSION OF INFORMATION.—As part of a request to renew a preliminary injunction, or injunction pending appeal, granted regarding an authorized hazardous fuels reduction project, the parties involved shall present to the court a description of any changes that may have occurred during the period of the injunction to the forest or rangeland conditions that the authorized hazardous fuels reduction project is intended to address.

(3) CONGRESSIONAL NOTIFICATION.—In the event of the renewal of a preliminary injunction, or injunction pending appeal, regarding an authorized hazardous fuels reduction project, the Secretary shall submit notice of the renewal to—

(A) the Committee on Resources and the Committee on Agriculture of the House of Representatives; and

(B) the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) EXPEDITIOUS COMPLETION OF JUDICIAL REVIEW.—Congress intends and encourages any court in which is filed an action challenging an authorized hazardous fuels reduction project to expedite, to the maximum extent practicable, the

proceedings in the lawsuit or appeal with the goal of rendering, not later than 100 days after the date on which the complaint or appeal is filed—

(1) a final determination on jurisdiction; and

(2) if jurisdiction exists, a final determination on the merits.

SEC. 107. STANDARD FOR INJUNCTIVE RELIEF FOR AGENCY ACTION TO RESTORE FIRE-ADAPTED FOREST OR RANGELAND ECOSYSTEMS.

If a civil action brought against the Secretary under section 703 of title 5, United States Code, involves an agency action on Federal land on which the Secretary found that the agency action is necessary to restore a fire-adapted forest or rangeland ecosystem (including an authorized hazardous fuels reduction project), the court reviewing the agency action, in considering a request for a prohibitory or mandatory injunction against the agency action, shall—

(1) balance the impact to the ecosystem likely affected by the project of the short- and long-term effects of undertaking the agency action against the short- and long-term effects of not undertaking the agency action; and

(2) give weight to a finding by the Secretary in the administrative record of the agency action concerning the short- and long-term effects of undertaking the agency action and of not undertaking the agency action, unless the court finds that the finding was arbitrary and capricious.

SEC. 108. EFFECT OF TITLE.

(a) RELATION TO OTHER AUTHORITY.—Nothing in this title affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority to conduct a hazardous fuels reduction project on Federal land (including Federal land identified in section 102(d)) that is not conducted using the process authorized by section 104.

(b) RELATION TO LEGAL ACTION.—Nothing in this title prejudices or otherwise affects the consideration or disposition of any legal action concerning the Roadless Area Conservation Rule contained in part 294 of title 36, Code of Federal Regulations, and amended in the final rule and record of decision published in the Federal Register on January 12, 2001 (66 Fed. Reg. 3244).

TITLE II—BIOMASS

SEC. 201. FINDINGS.

Congress finds that—

(1)(A) thousands of communities in the United States, many located near Federal land, are at risk of wildfire;

(B) more than 100,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future; and

(C) the accumulation of heavy forest and rangeland fuel loads continues to increase as a result of fire exclusion, disease, insect infestations, and drought, further raising the risk of fire each year;

(2)(A) more than 70,000,000 acres across all land ownerships are at risk of higher than normal mortality during the 15-year period beginning on the date of enactment of this Act because of insect infestation and disease; and

(B) high levels of tree mortality from insects and disease result in—

(i) increased fire risk;

(ii) loss of older trees and old growth;

(iii) degraded watershed conditions;

(iv) changes in species diversity and productivity;

(v) diminished fish and wildlife habitat;

(vi) decreased timber values; and

(vii) increased threats to homes, businesses, and community watersheds;

(3)(A) preventive treatments (such as reducing fuel loads, crown density, ladder fuels, and hazard trees), planting proper species mix, restoring and protecting early successional habitat, and completing other specific restoration treatments designed to reduce the susceptibility of forest and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest and rangeland health, maintenance, and enhancement by creating a mosaic of species-mix and age distribution; and

(B) those vegetation management treatments are widely acknowledged to be more successful and cost-effective than suppression treatments in the case of insects, disease, and fire;

(4)(A) the byproducts of vegetative management treatment (such as trees, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest and rangeland represent an abundant supply of—

(i) biomass for biomass-to-energy facilities; and

(ii) raw material for business; and

(B) there are currently few markets for the extraordinary volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities; and

(5) the United States should—

(A) promote economic and entrepreneurial opportunities in using by-products removed through vegetation treatment activities relating to hazardous fuels reduction, disease, and insect infestation;

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for by-products of preventive treatment activities; and

(C) promote research and development to provide, for the by-products, economically and environmentally sound—

(i) management systems;

(ii) harvest and transport systems; and

(iii) utilization options.

SEC. 202. DEFINITIONS.

In this title:

(1) BIOMASS.—The term ''biomass'' means trees and woody plants (including limbs, tops, needles, other woody parts, and wood waste) and byproducts of preventive treatment (such as wood, brush, thinnings, chips, and slash) that are removed—

(A) to reduce hazardous fuels;

(B) to reduce the risk of or to contain disease or insect infestation; or

(C) to improve forest health and wildlife habitat conditions.

(2) PERSON.—The term ''person'' includes—

(A) an individual;

(B) a community (as determined by the Secretary);

(C) an Indian tribe;

(D) a small business, microbusiness, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(3) PREFERRED COMMUNITY.—The term ''preferred community'' means—

(A) any town, township, municipality, Indian tribe, or other similar unit of local government (as determined by the Secretary) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land that—

(I) is at significant risk of catastrophic wildfire, disease, or insect infestation; or

(II) suffers from disease or insect infestation; or

(B) any area or unincorporated area represented by a nonprofit organization approved by the Secretary, that—

(i) is not wholly contained within a metropolitan statistical area; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land—

(I) the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation; or

(II) that suffers from disease or insect infestation.

(4) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to Federal land under the jurisdiction of the Secretary of the Interior (including land held in trust for the benefit of an Indian tribe).

SEC. 203. GRANTS TO IMPROVE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, COMPOST, VALUE-ADDED PRODUCTS, AND PETROLEUM-BASED PRODUCT SUBSTITUTES.

(a) BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, substitutes for petroleum-based products, wood-based products, pulp, or other commercial products to offset the costs incurred to purchase biomass for use by the facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—

(A) IN GENERAL.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass.

(B) ACCESS.—On notice by a representative of the Secretary, the grant recipient shall afford the representative—

(i) reasonable access to the facility that purchases or uses biomass; and

(ii) an opportunity to examine the inventory and records of the facility.

(b) VALUE-ADDED GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary—

(A) may make grants to persons to offset the cost of projects to add value to biomass; and

(B) in making a grant under subparagraph (A), shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary shall select a grant recipient under paragraph (1)(A) after giving consideration to—

(A) the anticipated public benefits of the project;

(B) opportunities for the creation or expansion of small businesses and microbusinesses resulting from the project; and

(C) the potential for new job creation as a result of the project.

(3) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000.

(c) RELATION TO OTHER ENDANGERED SPECIES AND RIPARIAN PROTECTIONS.—

(1) IN GENERAL.—The Secretary shall comply with applicable endangered species and riparian protections in making grants under this section.

(2) PROJECTS.—Projects funded using grant proceeds shall be required to comply with the protections.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2004 through 2008.

SEC. 204. REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—Not later than October 1, 2008, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the grant programs authorized by section 203.

(b) CONTENTS OF REPORT.—The report shall include—

(1) an identification of the source, size, type, and the end-use of biomass by persons that receive grants under section 203;

(2) the haul costs incurred and the distance between the land from which the biomass was removed and the facilities that used the biomass;

(3) the economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations; and

(4) the environmental effects of the activities described in this section.

SEC. 205. IMPROVED BIOMASS USE RESEARCH PROGRAM.

(a) USES OF GRANTS, CONTRACTS, AND ASSISTANCE.—Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(5) research to integrate silviculture, harvesting, product development, processing information, and economic evaluation to provide the science, technology, and tools to forest managers and community developers for use in evaluating forest treatment and production alternatives, including—

''(A) to develop tools that would enable land managers, locally or in a several-State region, to estimate—

''(i) the cost to deliver varying quantities of wood to a particular location; and

''(ii) the amount that could be paid for stumpage if delivered wood was used for a specific mix of products;

''(B) to conduct research focused on developing appropriate thinning systems and equipment designs that are—

''(i) capable of being used on land without significant adverse effects on the land;

''(ii) capable of handling large and varied landscapes;

''(iii) adaptable to handling a wide variety of tree sizes;

''(iv) inexpensive; and

''(v) adaptable to various terrains; and

''(C) to develop, test, and employ in the training of forestry managers and community developers curricula materials and training programs on matters described in subparagraphs (A) and (B).''.

(b) FUNDING.—Section 310(b) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106–224) is amended—

(1) by striking ''$49,000,000'' and inserting ''$54,000,000''; and

(2) by inserting before the period at the end the following: '', of which not less than $5,000,000 shall be used for each fiscal year to carry out section 307(d)(5)''.

SEC. 206. RURAL REVITALIZATION THROUGH FORESTRY.

Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended by adding at the end the following:

''(d) RURAL REVITALIZATION TECHNOLOGIES.—

''(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with the State and Private Forestry Technology Marketing Unit at the Forest Products Laboratory, and in collaboration with eligible institutions, may carry out a program—

''(A) to accelerate adoption of technologies using biomass and small-diameter materials;

''(B) to create community-based enterprises through marketing activities and demonstration projects; and

''(C) to establish small-scale business enterprises to make use of biomass and small-diameter materials.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2004 through 2008.''.

TITLE III—WATERSHED FORESTRY ASSISTANCE

SEC. 301. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that the proper stewardship of forest land is essential to sustaining and restoring the health of watersheds;

(3) forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes forest restoration worthy of special focus; and

(4) strengthened education, technical assistance, and financial assistance for nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

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

(1) to improve landowner and public understanding of the connection between forest management and watershed health;

(2) to encourage landowners to maintain tree cover on property and to use tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

(3) to enhance and complement forest management and buffer use for watersheds, with an emphasis on community watersheds;

(4) to establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

(5) to provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, and conserves and improves forested land and potentially forested land, through technical, financial, and educational assistance to qualifying individuals and entities; and

(6) to maximize the proper management and conservation of wetland forests and to assist in the restoration of those forests.

SEC. 302. WATERSHED FORESTRY ASSISTANCE PROGRAM.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5 (16 U.S.C. 2103a) the following:

''SEC. 6. WATERSHED FORESTRY ASSISTANCE PROGRAM.

''(a) DEFINITION OF NONINDUSTRIAL PRIVATE FOREST LAND.—In this section, the term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

''(1) has existing tree cover or that is suitable for growing trees; and

''(2) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decisionmaking authority over the land.

''(b) GENERAL AUTHORITY AND PURPOSE.—The Secretary, acting through the Chief of the Forest Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, and officials of the Cooperative State Research, Education, and Extension Service for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested land and potentially forested land.

''(c) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

''(1) IN GENERAL.—The Secretary, in cooperation with State foresters, officials of the Cooperative State Research, Education, and Extension Service, or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical assistance to protect water quality described in paragraph (2).

''(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

''(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, and local levels;

''(B) to provide State forestry best-management practices and water quality technical assistance directly to owners of nonindustrial private forest land;

''(C) to provide technical guidance to land managers and policymakers for water quality protection through forest management;

''(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

''(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

''(3) IMPLEMENTATION.—The program of technical assistance shall be implemented by State foresters or equivalent State officials.

''(d) WATERSHED FORESTRY COST-SHARE PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a watershed forestry cost-share program—

''(A) which shall be—

''(i) administered by the Forest Service; and

''(ii) implemented by State foresters or equivalent State officials; and

''(B) under which funds or other support provided shall be made available for State forestry best-management practices programs and watershed forestry projects.

''(2) WATERSHED FORESTRY PROJECTS.—The State forester, State Research, Education and Extension official, or equivalent State official of a State, in coordination with the State Forest Stewardship Coordinating Committee established under section 19(b) (or an equivalent committee) for that State, shall make awards to communities, nonprofit groups, and owners of nonindustrial private forest land under the program for watershed forestry projects described in paragraph (3).

''(3) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

''(A) the use of trees as solutions to water quality problems in urban and rural areas;

''(B) community-based planning, involvement, and action through State, local and nonprofit partnerships;

''(C) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

''(D) watershed-scale forest management activities and conservation planning; and

''(E)(i) the restoration of wetland (as defined by the States) and stream-side forests; and

''(ii) the establishment of riparian vegetative buffers.

''(4) COST-SHARING.—

''(A) FEDERAL SHARE.—

''(i) FUNDS UNDER THIS SUBSECTION.—Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project.

''(ii) OTHER FEDERAL FUNDS.—The percentage of the cost of a project described in clause (i) that is not covered by funds made available under this subsection may be paid using other Federal funding sources, except that the total Federal share of the costs of the project may not exceed 90 percent.

''(B) FORM.—The non-Federal share of the costs of a project may be provided in the form of cash, services, or other in-kind contributions.

''(5) PRIORITIZATION.—The State Forest Stewardship Coordinating Committee for a State, or

equivalent State committee, shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

''(6) WATERSHED FORESTER.—Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State watershed or best-management practice forester position to—

''(A) lead statewide programs; and

''(B) coordinate watershed-level projects.

''(e) DISTRIBUTION.—

''(1) IN GENERAL.—Of the funds made available for a fiscal year under subsection (g), the Secretary shall use—

''(A) at least 75 percent of the funds to carry out the cost-share program under subsection (d); and

''(B) the remainder of the funds to deliver technical assistance, education, and planning, at the local level, through the State Forester or equivalent State official.

''(2) SPECIAL CONSIDERATIONS.—Distribution of funds by the Secretary among States under paragraph (1) shall be made only after giving appropriate consideration to—

''(A) the acres of agricultural land, nonindustrial private forest land, and highly erodible land in each State;

''(B) the miles of riparian buffer needed;

''(C) the miles of impaired stream segments and other impaired water bodies where forestry practices can be used to restore or protect water resources;

''(D) the number of owners of nonindustrial private forest land in each State; and

''(E) water quality cost savings that can be achieved through forest watershed management.

''(f) WILLING OWNERS.—

''(1) IN GENERAL.—Participation of an owner of nonindustrial private forest land in the watershed forestry assistance program under this section is voluntary.

''(2) WRITTEN CONSENT.—The watershed forestry assistance program shall not be carried out on nonindustrial private forest land without the written consent of the owner of, or entity having definitive decisionmaking over, the nonindustrial private forest land.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2004 through 2008.''.

SEC. 303. TRIBAL WATERSHED FORESTRY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the ''Secretary''), acting through the Chief of the Forest Service, shall provide technical, financial, and related assistance to Indian tribes for the purpose of expanding tribal stewardship capacities and activities through tribal forestry best-management practices and other means at the tribal level to address watershed issues on land under the jurisdiction of or administered by the Indian tribes.

(b) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

(1) IN GENERAL.—The Secretary, in cooperation with Indian tribes, shall develop a program to provide technical assistance to protect water quality, as described in paragraph (2).

(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, tribal, and local levels;

(B) to provide tribal forestry best-management practices and water quality technical assistance directly to Indian tribes;

(C) to provide technical guidance to tribal land managers and policy makers for water quality protection through forest management;

(D) to complement tribal efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal agencies and tribal entities charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of tribal forestry best-management practices.

(c) WATERSHED FORESTRY PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a watershed forestry program to be administered by Indian tribes.

(2) PROGRAMS AND PROJECTS.—Funds or other support provided under the program shall be made available for tribal forestry best-management practices programs and watershed forestry projects.

(3) ANNUAL AWARDS.—The Secretary shall annually make awards to Indian tribes to carry out this subsection.

(4) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within land under the jurisdiction of or administered by an Indian tribe by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems;

(B) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(C) watershed-scale forest management activities and conservation planning;

(D) the restoration of wetland and stream-side forests and the establishment of riparian vegetative buffers; and

(E) tribal-based planning, involvement, and action through State, tribal, local, and nonprofit partnerships.

(5) PRIORITIZATION.—An Indian tribe that participates in the program under this subsection shall prioritize watersheds in land under the jurisdiction of or administered by the Indian tribe to target watershed forestry projects funded under this subsection.

(6) WATERSHED FORESTER.—The Secretary may provide to Indian tribes under this section financial and technical assistance to establish a position of tribal forester to lead tribal programs and coordinate small watershed-level projects.

(d) DISTRIBUTION.—The Secretary shall devote—

(1) at least 75 percent of the funds made available for a fiscal year under subsection (e) to the program under subsection (c); and

(2) the remainder of the funds to deliver technical assistance, education, and planning on the ground to Indian tribes.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2004 through 2008.

TITLE IV—INSECT INFESTATIONS AND RELATED DISEASES

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) high levels of tree mortality resulting from insect infestation (including the interaction between insects and diseases) may result in—

(A) increased fire risk;

(B) loss of old trees and old growth;

(C) loss of threatened and endangered species;

(D) loss of species diversity;

(E) degraded watershed conditions;

(F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and

(G) decreased timber values;

(2)(A) forest-damaging insects destroy hundreds of thousands of acres of trees each year;

(B) in the West, more than 21,000,000 acres are at high risk of forest-damaging insect infestation, and in the South, more than 57,000,000 acres are at risk across all land ownerships; and

(C) severe drought conditions in many areas of the South and West will increase the risk of forest-damaging insect infestations;

(3) the hemlock woolly adelgid is—

(A) destroying streamside forests throughout the mid-Atlantic and Appalachian regions;

(B) threatening water quality and sensitive aquatic species; and

(C) posing a potential threat to valuable commercial timber land in northern New England;

(4)(A) the emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests because an emerald ash borer infestation is almost always fatal to affected trees; and

(B) the emerald ash borer pest threatens to destroy more than 692,000,000 ash trees in forests in Michigan and Ohio alone, and between 5 and 10 percent of urban street trees in the Upper Midwest;

(5)(A) epidemic populations of Southern pine beetles are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and

(B) in 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in Southern pine beetle populations;

(6) those epidemic outbreaks of Southern pine beetles have forced private landowners to harvest dead and dying trees, in rural areas and increasingly urbanized settings;

(7) according to the Forest Service, recent outbreaks of the red oak borer in Arkansas and Missouri have been unprecedented, with more than 1,000,000 acres infested at population levels never seen before;

(8) much of the damage from the red oak borer has taken place in national forests, and the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources;

(9)(A) previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application; and

(B) there have not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments;

(10) only through the full funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests;

(11)(A) often, there are significant interactions between insects and diseases;

(B) many diseases (such as white pine blister rust, beech bark disease, and many other diseases) can weaken trees and forest stands and predispose trees and forest stands to insect attack; and

(C) certain diseases are spread using insects as vectors (including Dutch elm disease and pine pitch canker); and

(12) funding and implementation of an initiative to combat forest pest infestations and associated diseases should not come at the expense of supporting other programs and initiatives of the Secretary.

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

(1) to require the Secretary to develop an accelerated basic and applied assessment program to combat infestations by forest-damaging insects and associated diseases;

(2) to enlist the assistance of colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions), State agencies, and private landowners to carry out the program; and

(3) to carry out applied silvicultural assessments.

SEC. 402. DEFINITIONS.

In this title:

(1) APPLIED SILVICULTURAL ASSESSMENT.—

(A) IN GENERAL.—The term ''applied silvicultural assessment'' means any vegetative or other treatment carried out for a purpose described in section 403.

(B) INCLUSIONS.—The term ''applied silvicultural assessment'' includes (but is not limited to)

timber harvesting, thinning, prescribed burning, pruning, and any combination of those activities.

(2) 1890 INSTITUTION.—

(A) IN GENERAL.—The term ''1890 Institution'' means a college or university that is eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.).

(B) INCLUSION.—The term ''1890 Institution'' includes Tuskegee University.

(3) FOREST-DAMAGING INSECT.—The term ''forest-damaging insect'' means—

(A) a Southern pine beetle;

(B) a mountain pine beetle;

(C) a spruce bark beetle;

(D) a gypsy moth;

(E) a hemlock woolly adelgid;

(F) an emerald ash borer;

(G) a red oak borer;

(H) a white oak borer; and

(I) such other insects as may be identified by the Secretary.

(4) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System land; and

(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

SEC. 403. ACCELERATED INFORMATION GATHERING REGARDING FOREST-DAMAGING INSECTS.

(a) INFORMATION GATHERING.—The Secretary, acting through the Forest Service and United States Geological Survey, as appropriate, shall establish an accelerated program—

(1) to plan, conduct, and promote comprehensive and systematic information gathering on forest-damaging insects and associated diseases, including an evaluation of—

(A) infestation, prevention, and suppression methods;

(B) effects of infestations and associated disease interactions on forest ecosystems;

(C) restoration of forest ecosystem efforts;

(D) utilization options regarding infested trees; and

(E) models to predict the occurrence, distribution, and impact of outbreaks of forest-damaging insects and associated diseases;

(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of forest-damaging insects and associated diseases on Federal land and State and private land; and

(3) to disseminate the results of the information gathering, treatments, and strategies.

(b) COOPERATION AND ASSISTANCE.—The Secretary shall—

(1) establish and carry out the program in cooperation with—

(A) scientists from colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions);

(B) Federal, State, and local agencies; and

(C) private and industrial landowners; and

(2) designate such colleges and universities to assist in carrying out the program.

SEC. 404. APPLIED SILVICULTURAL ASSESSMENTS.

(a) ASSESSMENT EFFORTS.—For information gathering and research purposes, the Secretary may conduct applied silvicultural assessments on Federal land that the Secretary determines is at risk of infestation by, or is infested with, forest-damaging insects.

(b) LIMITATIONS.—

(1) EXCLUSION OF CERTAIN AREAS.—Subsection (a) does not apply to—

(A) a component of the National Wilderness Preservation System;

(B) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

(C) a congressionally-designated wilderness study area; or

(D) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

(2) CERTAIN TREATMENT PROHIBITED.—Nothing in subsection (a) authorizes the application of insecticides in municipal watersheds or associated riparian areas.

(3) PEER REVIEW.—

(A) IN GENERAL.—Before being carried out, each applied silvicultural assessment under this title shall be peer reviewed by scientific experts selected by the Secretary, which shall include non-Federal experts.

(B) EXISTING PEER REVIEW PROCESSES.—The Secretary may use existing peer review processes to the extent the processes comply with subparagraph (A).

(c) PUBLIC NOTICE AND COMMENT.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each applied silvicultural assessment proposed to be carried out under this section.

(2) PUBLIC COMMENT.—The Secretary shall provide an opportunity for public comment before carrying out an applied silviculture assessment under this section.

(d) CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—Applied silvicultural assessment and research treatments carried out under this section on not more than 1,000 acres for an assessment or treatment may be categorically excluded from documentation in an environmental impact statement and environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ADMINISTRATION.—Applied silvicultural assessments and research treatments categorically excluded under paragraph (1)—

(A) shall not be carried out in an area that is adjacent to another area that is categorically excluded under paragraph (1) that is being treated with similar methods; and

(B) shall be subject to the extraordinary circumstances procedures established by the Secretary pursuant to section 1508.4 of title 40, Code of Federal Regulations.

(3) MAXIMUM CATEGORICAL EXCLUSION.—The total number of acres categorically excluded under paragraph (1) shall not exceed 250,000 acres.

(4) NO ADDITIONAL FINDINGS REQUIRED.—In accordance with paragraph (1), the Secretary shall not be required to make any findings as to whether an applied silvicultural assessment project, either individually or cumulatively, has a significant effect on the environment.

SEC. 405. RELATION TO OTHER LAWS.

The authority provided to each Secretary under this title is supplemental to, and not in lieu of, any authority provided to the Secretaries under any other law.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title for each of fiscal years 2004 through 2008.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM

SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RESERVE PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish the healthy forests reserve program for the purpose of restoring and enhancing forest ecosystems—

(1) to promote the recovery of threatened and endangered species;

(2) to improve biodiversity; and

(3) to enhance carbon sequestration.

(b) COORDINATION.—The Secretary of Agriculture shall carry out the healthy forests reserve program in coordination with the Secretary of the Interior and the Secretary of Commerce.

SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, in coordination with the Secretary of the Interior and the Secretary of Commerce, shall describe and define forest ecosystems that are eligible for enrollment in the healthy forests reserve program.

(b) ELIGIBILITY.—To be eligible for enrollment in the healthy forests reserve program, land shall be—

(1) private land the enrollment of which will restore, enhance, or otherwise measurably increase the likelihood of recovery of a species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) private land the enrollment of which will restore, enhance, or otherwise measurably improve the well-being of species that—

(A) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(B) are candidates for such listing, State-listed species, or special concern species.

(c) OTHER CONSIDERATIONS.—In enrolling land that satisfies the criteria under subsection (b), the Secretary of Agriculture shall give additional consideration to land the enrollment of which will—

(1) improve biological diversity; and

(2) increase carbon sequestration.

(d) ENROLLMENT BY WILLING OWNERS.—The Secretary of Agriculture shall enroll land in the healthy forests reserve program only with the consent of the owner of the land.

(e) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the healthy forests reserve program shall not exceed 2,000,000 acres.

(f) METHODS OF ENROLLMENT.—

(1) IN GENERAL.—Land may be enrolled in the healthy forests reserve program in accordance with—

(A) a 10-year cost-share agreement;

(B) a 30-year agreement; or

(C) a long-term easement with a buyback option.

(2) PROPORTION.—The extent to which each enrollment method is used shall be based on the approximate proportion of owner interest expressed in that method in comparison to the other methods.

(g) ENROLLMENT PRIORITY.—

(1) SPECIES.—The Secretary of Agriculture shall give priority to the enrollment of land that provides the greatest conservation benefit to—

(A) primarily, species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(B) secondarily, species that—

(i) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(ii) are candidates for such listing, State-listed species, or special concern species.

(2) COST-EFFECTIVENESS.—The Secretary of Agriculture shall also consider the cost-effectiveness of each agreement and easement, and their associated restoration plans, so as to maximize the environmental benefits per dollar expended.

SEC. 503. RESTORATION PLANS.

(a) IN GENERAL.—Land enrolled in the healthy forests reserve program shall be subject to a restoration plan, to be developed jointly by the landowner and the Secretary of Agriculture.

(b) PRACTICES.—The restoration plan shall require such restoration practices as are necessary to restore and enhance habitat for—

(1) species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) animal or plant species before the species reach threatened or endangered status, such as candidate, State-listed species, and special concern species.

SEC. 504. FINANCIAL ASSISTANCE.

(a) LONG-TERM EASEMENT WITH BUYBACK OPTION.—

(1) PAYMENT AMOUNT.—In the case of land enrolled in the healthy forests reserve program

using a long-term easement (with a minimum length of 99 years) with a buyback option, the Secretary of Agriculture shall pay the owner of the land an amount equal to not less than 75 percent, nor more than 100 percent, of (as determined by the Secretary)—

(A) the fair market value of the enrolled land during the period the land is subject to the easement, less the fair market value of the land encumbered by the easement; and

(B) the actual costs of the approved conservation practices or the average cost of approved practices carried out on the land during the period the land is subject to the easement.

(2) BUY-BACK OPTION.—In the case of land enrolled in the healthy forests reserve program using a long-term easement with a buyback option, beginning on the date that is 50 years after the date of enrollment of the land, and every 10 years thereafter, the owner of the land shall be permitted to purchase the easement back from the United States for an amount equal to not more than (as determined by the Secretary)—

(A) the percentage of the fair market value the owner received for the easement under paragraph (1); and

(B) the costs, adjusted by the Secretary to reflect changes in the Consumer Price Index for all-urban consumers, as published by the Bureau of Labor Statistics, of the approved conservation practices necessary for establishment of the easement.

(3) FUNDS.—All funds returned to the United States under this subsection shall be used to carry out the healthy forests reserve program.

(b) 30-YEAR AGREEMENT.— In the case of land enrolled in the healthy forests reserve program using a 30-year agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 75 percent of the fair market value of the land, less the fair market value of the land encumbered by the agreement; and

(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices.

(c) 10-YEAR AGREEMENT.—In the case of land enrolled in the healthy forests reserve program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 50 percent of the actual costs of the approved conservation practices; or

(2) 50 percent of the average cost of approved practices.

(d) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

SEC. 505. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture shall provide landowners with technical assistance to assist the owners in complying with the terms of plans (as included in agreements and easements) under the healthy forests reserve program.

(b) TECHNICAL SERVICE PROVIDERS.—The Secretary of Agriculture may request the services of, and enter into cooperative agreements with, individuals or entities certified as technical service providers under section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842), to assist the Secretary in providing technical assistance necessary to develop and implement the healthy forests reserve program.

SEC. 506. PROTECTIONS AND MEASURES

(a) PROTECTIONS.—In the case of a landowner that enrolls land in the program and whose conservation activities result in a net conservation benefit for listed, candidate, or other species, the Secretary of Agriculture shall make available to the landowner safe harbor or similar assurances and protection under—

(1) section 7(b)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)); or

(2) section 10(a)(1) of that Act (16 U.S.C. 1539(a)(1)).

(b) MEASURES.—If protection under subsection (a) requires the taking of measures that are in addition to the measures covered by the applicable restoration plan agreed to under section 503, the cost of the additional measures, as well as the cost of any permit, shall be considered part of the restoration plan for purposes of financial assistance under section 504.

SEC. 507. INVOLVEMENT BY OTHER AGENCIES AND ORGANIZATIONS.

In carrying out this title, the Secretary of Agriculture may consult with—

(1) nonindustrial private forest landowners;
(2) other Federal agencies;
(3) State fish and wildlife agencies;
(4) State forestry agencies;
(5) State environmental quality agencies;
(6) other State conservation agencies; and
(7) nonprofit conservation organizations.

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $25,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each of fiscal years 2005 through 2008.

TITLE VI—PUBLIC LAND CORPS

SEC. 601. PURPOSES.

The purposes of this title are—

(1) to carry out, in a cost-effective and efficient manner, rehabilitation, enhancement, and beautification projects;

(2) to offer young people, ages 16 through 25, particularly those who are at-risk or economically disadvantaged, the opportunity to gain productive employment and exposure to the world of work;

(3) to give those young people the opportunity to serve their communities and their country; and

(4) to expand educational opportunities by rewarding individuals who participate in the Public Land Corps with an increased ability to pursue higher education or job training.

SEC. 602. DEFINITIONS.

In this title:

(1) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' means a Regional Corporation or Village Corporation, as defined in section 101(11) of the National and Community Service Act of 1990 (42 U.S.C. 12511(11)).

(2) CORPS.—The term ''Corps'' means the Public Land Corps established under section 603(a).

(3) HAWAIIAN HOME LANDS.—The term ''Hawaiian home lands'' means that term, within the meaning of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(4) INDIAN LANDS.—The term ''Indian lands'' has the meaning given the term in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(5) SECRETARIES.—The term ''Secretaries'' means—

(A) the Secretary of Agriculture; and

(B) the Secretary of the Interior.

(6) SERVICE AND CONSERVATION CORPS.—The term ''service and conservation corps'' means any organization established by a State or local government, nonprofit organization, or Indian tribe that—

(A) has a demonstrable capability to provide productive work to individuals;

(B) gives participants a combination of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values through service to their communities and the United States.

(7) STATE.—The term ''State'' means—

(A) a State;
(B) the District of Columbia;
(C) the Commonwealth of Puerto Rico;
(D) Guam;
(E) American Samoa;
(F) the Commonwealth of the Northern Mariana Islands;
(G) the Federated States of Micronesia;
(H) the Republic of the Marshall Islands;
(I) the Republic of Palau; and
(J) the United States Virgin Islands.

SEC. 603. PUBLIC LAND CORPS.

(a) ESTABLISHMENT.—There is established a Public Land Corps.

(b) PARTICIPANTS.—The Corps shall consist of individuals who are enrolled as members of a service or conservation corps.

(c) CONTRACTS OR AGREEMENTS.—The Secretaries may enter into contracts or cooperative agreements—

(1) directly with any service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects; or

(2) with a department of natural resources, agriculture, or forestry (or an equivalent department) of any State that has entered into a contract or cooperative agreement with a service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects.

(d) PROJECTS.—

(1) IN GENERAL.—The Secretaries may use the members of a service and conservation corps to perform rehabilitation, enhancement, or beautification projects authorized by law.

(2) INCLUDED LAND.—In addition to Federal and State lands, the projects may be carried out on—

(A) Indian lands, with the approval of the applicable Indian tribe;

(B) Hawaiian home lands, with the approval of the relevant State agency in the State of Hawaii; and

(C) Alaska native lands, with the approval of the applicable Alaska Native Corporation.

(e) PREFERENCE.—In carrying out this title, the Secretaries shall give preference to projects that will—

(1) provide long-term benefits by reducing hazardous fuels on Federal land;

(2) instill in members of the service and conservation corps—

(A) a work ethic;
(B) a sense of personal responsibility; and
(C) a sense of public service;
(3) be labor intensive; and
(4) be planned and initiated promptly.

(f) SUPPORTIVE SERVICES.—The Secretaries may provide such services as the Secretaries consider necessary to carry out this title.

(g) TECHNICAL ASSISTANCE.—To carry out this title, the Secretaries shall provide technical assistance, oversight, monitoring, and evaluation to—

(1) State Departments of Natural Resources and Agriculture (or equivalent agencies); and

(2) members of service and conservation corps.

SEC. 604. NONDISPLACEMENT.

The nondisplacement requirements of section 177(b) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)) shall apply to activities carried out by the Corps under this title.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $15,000,000 for each of fiscal years 2004 through 2008.

TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

SEC. 701. PURPOSE

The purpose of this title is to assist in the economic revitalization of rural forest resource-dependent communities through incentives to promote investment in private enterprise and community development by—

(1) the Department of Agriculture;
(2) the Department of the Interior;
(3) the Department of Commerce;
(4) the Small Business Administration;
(5) land grant colleges and universities; and
(6) 1890 Institutions.

SEC. 702. DEFINITIONS.

In this title:

(1) 1890 INSTITUTION.—The term ''1890 Institution'' has the meaning given the term in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a unit of State or local government;

(B) an Indian tribe;

(C) a nonprofit organization;

(D) a small forest products business;

(E) a rural forest resource-dependent community;

(F) a land grant college or university; or

(G) an 1890 institution.

(3) ELIGIBLE PROJECT.—The term ''eligible project'' means a project described in section 703 that will promote the economic development in rural forest resource-dependent communities based on—

(A) responsible forest stewardship;

(B) the production of sustainable forest products; or

(C) the development of forest related tourism and recreation activities.

(4) FOREST PRODUCTS.—The term ''forest products'' means—

(A) logs;

(B) lumber;

(C) chips;

(D) small-diameter finished wood products;

(E) energy biomass;

(F) mulch; and

(G) any other material derived from forest vegetation or individual trees or shrubs.

(5) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means an organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986; and

(B) exempt from taxation under 501(a) of that Code.

(6) PROGRAM.—The term ''program'' means the rural community forestry enterprise program established under section 703.

(7) SMALL FOREST PRODUCTS BUSINESS.—The term ''small forest products business'' means a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) that is classified under subsector 113 or code number 115310 of the North American Industrial Classification System.

(8) RURAL FOREST RESOURCE-DEPENDENT COMMUNITY.—

(A) IN GENERAL.—The term ''rural forest resource-dependent community'' means a community located in a rural area of the United States that is traditionally dependent on forestry products as a primary source of community infrastructure.

(B) INCLUSIONS.—The term ''rural forest resource-dependent community'' includes a community described in subparagraph (A) located in—

(i) the northern forest land of Maine;

(ii) New Hampshire;

(iii) New York;

(iv) Vermont;

(v) the Upper Peninsula of Michigan;

(vi) northern California;

(vii) eastern Oregon;

(viii) the Bitterrroot Valley of Montana;

(ix) the northern panhandle of Idaho; and

(x) other areas, as determined by the Secretary.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

SEC. 703. RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish within the Forest Service a program to be known as the ''Rural Community Forestry Enterprise Program''.

(2) COORDINATION.—In carrying out the program, the Secretary shall coordinate with—

(A) the Small Business Administration;

(B) the Economic Development Administration;

(C) land grant colleges and universities;

(D) 1890 institutions; and

(E) other agencies of the Department of Agriculture that administer rural development programs.

(b) PURPOSES.—The purposes of the program are—

(1) to enhance technical and business management skills training;

(2) to organize cooperatives and marketing programs;

(3) to establish and maintain timber worker skill pools;

(4) to establish and maintain forest product distribution networks and collection centers;

(5) to facilitate technology transfer for processing small diameter trees and brush into useful products;

(6) to develop, where support exists, a program to promote science-based technology implementation and technology transfer that expands the capacity for small forest product businesses to work within market areas;

(7) to promote forest-related tourism and recreational activities;

(8) to enhance the rural forest business infrastructure needed to reduce hazardous fuels on public and private land; and

(9) to carry out related programs and activities, as determined by the Secretary.

(c) FOREST ENTERPRISE CENTERS.—The Secretary shall establish at least 1 Forest Enterprise Center at each Research Station of the Forest Service, to be located at a forest science laboratory—

(1) to carry out eligible projects; and

(2) to coordinate assistance provided to small forest products businesses with—

(A) the Small Business Administration, including the timber set-aside program carried out by the Small Business Administration;

(B) the Rural Utilities Service, the Rural Housing Service, and the Rural Business-Cooperative Service of the Department of Agriculture; and

(C) the Economic Development Administration, including the local technical assistance program of the Economic Development Administration.

(d) FOREST ENTERPRISE TECHNICAL ASSISTANCE AND GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Forest Enterprise Centers established under subsection (c), shall establish a program to provide technical assistance and grants to eligible entities to carry out eligible projects.

(2) CRITERIA.—The Secretary shall work with each Forest Enterprise Center to develop appropriate program review and prioritization criteria for each Research Station.

(3) MATCHING FUNDS.—Grants under this section shall—

(A) not exceed 50 percent of the cost of an eligible project; and

(B) be made on the condition that non-Federal sources pay for the remainder of the cost of an eligible project (including payment through in-kind contributions of services or materials).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2004 through 2008.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. FOREST INVENTORY AND MANAGEMENT.

Section 17 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 note; Public Law 95313) is amended to read as follows:

''SEC. 17. FOREST INVENTORY AND MANAGEMENT.

''(a) IN GENERAL.—The Secretary shall carry out a program using geospatial and information management technologies (including remote sensing imaging and decision support systems) to inventory, monitor, characterize, assess, and identify forest stands and potential forest stands (with emphasis on hardwood forest stands) on—

''(1) in units of the National Forest System; and

''(2) on private forest land, with the consent of the owner of the land.

''(b) MEANS.—The Secretary shall carry out the program through the use of—

''(1) remote sensing technology of the National Aeronautics and Space Administration and the United States Geological Survey;

''(2) emerging geospatial capabilities in research activities;

''(3) validating techniques using application demonstrations; and

''(4) integration of results into pilot operational systems.

''(c) ISSUES TO BE ADDRESSED.—In carrying out the program, the Secretary shall address issues including—

''(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, acid deposition, and weather-related risks and other episodic events);

''(2) loss or degradation of forests;

''(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

''(4) quantification of carbon uptake rates; and

''(5) management practices that focus on preventing further forest degradation.

''(d) EARLY WARNING SYSTEM.—In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

''(1) isolate and treat a threat before the threat gets out of control; and

''(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2009.''.

SEC. 802. PROGRAM FOR EMERGENCY TREATMENT AND REDUCTION OF NONNATIVE INVASIVE PLANTS.

(a) DEFINITIONS.—In this section:

(1) INTERFACE COMMUNITY.—The term ''interface community'' has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(2) INTERMIX COMMUNITY.—The term ''intermix community'' has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(3) PLANT.—The term ''plant'' includes—

(A) a tree;

(B) a shrub; and

(C) a vine.

(4) PROGRAM.—The term ''program'' means the program for emergency treatment and reduction of nonnative invasive plants established under subsection (b)(1).

(5) SECRETARIES.—The term ''Secretaries'' means the Secretary of Agriculture and the Secretary of the Interior, acting jointly.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretaries shall establish a program for emergency treatment and reduction of nonnative invasive plants to provide to State and local governments and agencies, conservation districts, tribal governments, and willing private landowners grants for use in carrying out hazardous fuel reduction projects to address threats of catastrophic fires that have been determined by the Secretaries to pose a serious threat to—

(A) property;

(B) human life; or

(C) the ecological stability of an area.

(2) COORDINATION.—In carrying out the program, the Secretaries shall coordinate with such Federal agencies, State and local governments and agencies, and conservation districts as are affected by projects under the program.

(c) ELIGIBLE LAND.—A project under the program shall—

(1) be carried out only on land that is located—

(A) in an interface community or intermix community; or

(B) in such proximity to an interface community or intermix community as would pose a significant risk in the event of the spread of a fire disturbance event from the land (including a risk that would threaten human life or property in proximity to or within the interface community or intermix community), as determined by the Secretaries;

(2) remove fuel loads determined by the Secretaries, a State or local government, a tribal government, or a private landowner to pose a serious threat to—

(A) property;

(B) human life; or

(C) the ecological stability of an area; and

(3) involve the removal of nonnative invasive plants.

(d) USE OF FUNDS.—Funds made available for a project under the program shall be used only for—

(1) the removal of plants or other potential fuels that are—

(A) adjacent to or within the wildland urban interface; or

(B) adjacent to a municipal watershed, river, or water course;

(2) the removal of erosion structures that impede the removal of nonnative plants; or

(3) the replanting of native vegetation to reduce the reestablishment of nonnative invasive plants in a treatment area.

(e) REVOLVING FUND.—

(1) IN GENERAL.—In the case of a grant provided to a willing owner to carry out a project on non-Federal land under this section, the owner shall deposit into a revolving fund established by the Secretaries any proceeds derived from the sale of timber or biomass removed from the non-Federal land under the project.

(2) USE.—The Secretaries shall use amounts in the revolving fund to make additional grants under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

SEC. 803. USDA NATIONAL AGROFORESTRY CENTER.

(a) IN GENERAL.—Section 1243 of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101–624) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 1243. USDA NATIONAL AGROFORESTRY CENTER.'';

and

(2) in subsection (a)—

(A) by striking ''SEMIARID'' and inserting ''USDA NATIONAL''; and

(B) by striking ''Semiarid'' and inserting ''USDA National''.

(b) PROGRAM.—Section 1243(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101–624) is amended—

(1) by inserting ''local governments, community organizations, the Institute of Tropical Forestry and the Institute of Pacific Islands Forestry of the Forest Service,'' after ''entities,'';

(2) in paragraph (1), by striking ''on semiarid lands'';

(3) in paragraph (3), by striking ''from semiarid land'';

(4) by striking paragraph (4) and inserting the following:

''(4) collect information on the design, installation, and function of forested riparian and upland buffers to—

''(A) protect water quality; and

''(B) manage water flow;'';

(5) in paragraphs (6) and (7), by striking ''on semiarid lands'' each place it appears;

(6) by striking paragraph (8) and inserting the following:

''(8) provide international leadership in the worldwide development and exchange of agroforestry practices;'';

(7) in paragraph (9), by striking ''on semiarid lands'';

(8) in paragraph (10), by striking ''and'' at the end;

(9) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(10) by adding at the end the following:

''(12) quantify the carbon storage potential of agroforestry practices such as—

''(A) windbreaks;

''(B) forested riparian buffers;

''(C) silvopasture timber and grazing systems; and

''(D) alley cropping; and

''(13) modify and adapt riparian forest buffer technology used on agricultural land for use by communities to manage stormwater runoff.''.

SEC. 804. UPLAND HARDWOODS RESEARCH CENTER.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall establish an Upland Hardwood Research Center.

(b) LOCATION.—The Secretary of Agriculture shall locate the Research Center in an area that, as determined by the Secretary of Agriculture, would best use and study the upland hardwood resources of the Ozark Mountains and the South.

(c) DUTIES.—The Upland Hardwood Research Center shall, in conjunction with the Southern Forest Research Station of the Department of Agriculture—

(1) provide the scientific basis for sustainable management of southern upland hardwood forests, particularly in the Ozark Mountains and associated mountain and upland forests; and

(2) conduct research in all areas to emphasize practical application toward the use and preservation of upland hardwood forests, particularly—

(A) the effects of pests and pathogens on upland hardwoods;

(B) hardwood stand regeneration and reproductive biology;

(C) upland hardwood stand management and forest health;

(D) threatened, endangered, and sensitive aquatic and terrestrial fauna;

(E) ecological processes and hardwood ecosystem restoration; and

(F) education and outreach to nonindustrial private forest landowners and associations.

(d) RESEARCH.—In carrying out the duties under subsection (c), the Upland Hardwood Research Center shall—

(1) cooperate with the Center for Bottomland Hardwood Research of the Southern Forest Research Station of the Department of Agriculture, located in Stoneville, Mississippi; and

(2) provide comprehensive research in the Mid-South region of the United States, the Upland Forests Ecosystems Unit of the Southern Forest Research Station of the Department of Agriculture, located in Monticello, Arkansas.

(e) PARTICIPATION OF PRIVATE LANDOWNERS.—The Secretary of Agriculture shall encourage and facilitate the participation of private landowners in the program under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2004 through 2008.

SEC. 805. SENSE OF CONGRESS REGARDING ENHANCED COMMUNITY FIRE PROTECTION.

It is the sense of Congress to reaffirm the importance of enhanced community fire protection program, as described in section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c) (as added by section 8003(b) of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 473)).

Amend the title so as to read: ''An Act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.''.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, on July 24, the Committee on Agriculture, Nutrition, and Forestry reported to the Senate H.R. 1904, the Healthy Forests Restoration Act. This bill, which is now before the Senate, reflects a comprehensive effort to improve forest health on both public and private lands. The bill provides Federal land managers the tools to implement scientifically supported management practices on Federal forests, in consultation with local communities, while establishing new conservation programs to improve water quality and regenerate declining forest ecosystem types on private lands.

The legislation will reduce the amount of time and expense required to conduct hazardous fuels projects, but it also will require rigorous environmental analysis of those projects.

Over the past few years, we have seen many communities destroyed and many firefighters' lives lost due to forest fires that could have been prevented. We are all deeply saddened by the tragic events occurring now in California. At least 17 people, we are told, have lost their lives; 1,600 homes have been destroyed, and 520,000 acres have burned.

The fires continue to wreak havoc in that State. Thousands of Californians have had to leave their homes, and more communities are being evacuated at this very moment.

On Monday, President Bush declared the region a disaster area. The cost resulting from these fires is estimated in the billions of dollars. The tools and resources this legislation provides land managers will assist in preventing the devastation resulting from forest fires.

In the past, the U.S. Forest Service has been forced to spend great amounts of time and resources battling lawsuits instead of managing the forests. The result has been months and even years of delays in fuel reduction projects. Our forests have continued to suffer, and they have continued to burn.

I have filed, along with 13 cosponsors, an amendment to title I of the bill which contains several modifications to the bill the committee reported.

I offer that amendment to the bill.

AMENDMENT NO. 1828

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself, Mr. CRAPO, Mr. DOMENICI, Mrs. LINCOLN, Mr. CRAIG, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. BAUCUS, Ms. MURKOWSKI, Mr. THOMAS, Mr. DASCHLE, Mr. BURNS, and Mr. JOHNSON, proposes an amendment numbered 1828.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. COCHRAN. Mr. President, this amendment embodies recommendations made by a bipartisan group of Senators who are committed getting this legislation passed and signed by the President. The amendment establishes a predecisional administrative review process. It allows an additional analysis under the National Environmental Policy Act. It directs the Secretary of Agriculture to give priority to communities and watersheds and hazardous fuel reduction projects. It contains new language protecting old-growth stands, and it encourages the courts to expedite the judicial review process.

The underlying legislation also contains a biomass title authorizing grant programs to encourage utilization of forest waste material. Another title provides financial and technical assistance to private forest land owners to encourage better management techniques to protect water quality. The pest and remote sensing titles would authorize funding for the U.S. Forest Service, land grant institutions, and 1890 institutions to plan, conduct, and promote the gathering of information about insects that have caused severe damage to forest ecosystems.

Title V, the Healthy Forest Reserve Program, is a private forest land conservation initiative that would support the restoration of declining forest ecosystem types that are critical to the recovery of threatened, endangered, and other sensitive species.

Two additional titles were added to the House-passed bill by our committee. One would establish a public land corps to provide opportunities to young people for employment and, at the same time, provide a cost-effective and efficient means to implement rehabilitation and enhancement projects in local communities. The other new title will promote investment in forest resource-dependent communities.

This legislation provides new legal authority to help us manage the Nation's forests in a safe and effective manner. The bill will help us do a better job of safeguarding these priceless national resources.

I urge the Senate to support the bill.

The PRESIDING OFFICER. Senator DASCHLE.

Mr. DASCHLE. Mr. President, I am very pleased to join my colleagues in supporting the bipartisan forest health legislation. Catastrophic wildfires raging in California today underscore the urgent need for action. We must reduce the risk that other communities and other States will face with regard to the devastation that Californians are experiencing today.

In South Dakota we also know from experience how destructive forest fires can be. In the Black Hills, we have experienced five major fires in the last 3 years. We are committed to finding a solution that will enable the Forest Service to reduce the threat of wildfire effectively and efficiently and that can become law. We must do more to expedite hazardous fuels reduction activities, and I believe this compromise will help the Forest Service to do so.

This past August I toured the Black Hills with Dale Bosworth, chief of the U.S. Forest Service. It is clear that the Forest Service needs additional tools to address the increasing fire risk to South Dakota and other State communities. Today more than 460,000 acres of the Black Hills National Forest are in moderate to high fire risk. If we do nothing, the Forest Service warns the number of acres at risk in the Black Hills will grow dramatically to more than 550,000 acres. That is unacceptable.

During our visit, Chief Bosworth asked that any reforms we undertake allow Forest Service personnel to spend less time in the office planning and more time in the forest actually clearing high fuel load.

This bipartisan compromise meets that standard, and it helps in other ways as well.

First, this legislation clarifies how much detail is needed for environmental analysis of fuel reduction projects.

Instead of analyzing anywhere from 5 to 10 alternatives—as is current practice—this bill specifies that the Forest Service must consider only three alternatives: The preferred alternative, a ''no-action'' alternative, and an ''additional-action alternative.''

The Forest Service currently spends over 50 percent of its time and money planning a given project. This will help reduce the costs of the environmental analysis and allow the Forest Service to treat more acres each year.

Second, this legislation streamlines the appeals process within the Forest Service by mirroring what is already done at the Bureau of Land Management.

In talking with Forest Service personnel in the Black Hills, one of the figures that struck me most is that 100 percent of proposed projects are appealed.

This legislation will help streamline the appeals process while still protecting the public's right to be heard before final decisions are made.

A third strength of this legislation—the pending amendment—is that it encourages speedy disposition of any projects that are challenged in court, without giving undue deference to any party.

The bottom line is that this bipartisan compromise will enable the Forest Service to spend more time conducting on-the-ground fuels-reduction projects, which is the key to reducing the risk of fire risk in America's forests and the communities that surround them.

While this compromise is not exactly the plan I would have crafted, I believe we cannot let the perfect be the enemy of the good in this situation.

I am committed to working with all of my colleagues to pass a forest health bill this year. I believe this bipartisan compromise can be enacted into law and I am hopeful that the administration will be helpful in convincing the House to join us in making that happen.

As we see today in California, the risks of delay are simply too high.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the manager of the bill. I commend the managers and the bipartisan group who worked on this bill. It is vitally needed, and I rise in strong support of it.

Mr. President, this long overdue piece of legislation will finally bring some common sense to forest management in our Nation.

Currently, conditions in our Nation's forests are terrible. The poor state of our forests is due in large part to a lack of active forest management efforts to reduce undergrowth and remove dead and dying trees to restore forest health. According to the Society of American Foresters, ''As a result of 80 years of fuels accumulation and several years of drought, the potential for catastrophic wildfire is at an all time high in many regions of the United States.''

An estimated 190 million acres of Federal forests and rangelands in the United States, an area twice the size of California, face a high risk of catastrophic wildfire. Decades of an accumulation of dense undergrowth and brush, along with drought, insect infestation and disease, and the presence of invasive exotic species have made our forests vulnerable to these environmentally destructive wildfires.

According to Secretary of Agriculture, Ann Venman, last year was the second worst fire season in modern history with over 7.2 million acres burned—an area larger than Maryland and Rhode Island combined. The States of Arizona, Colorado, and Oregon registered their largest and most destructive wildfires ever. It was also the most expensive fire season ever costing Federal taxpayers $1.6 billion. When the season ended, 23 firefighters were dead, tens of thousands of people fled their homes and more than 2,000 buildings were destroyed. This devastation was only eclipsed by the 2000 fire season where more than 8 million acres of forests burned at a Federal cost of $1.4 billion.

This year, as of the first week in October, we have had a total of 67,500 fires

that have burned over 3.2 million acres at a cost of over $550 million. Worse than that, over 20 wildland firefighters have lost their lives this year.

The time for addressing the problem of our unhealthy forests is long overdue. Current efforts to reduce excessive fuel loads, underbrush, and dead and dying trees are taking for too long due to senseless bureaucratic delay. According to the U.S. Forest Service, it can take up to 8 years to plan and execute relatively routine fuels reduction projects—8 years. Does anyone here believe that this is responsible forest management?

In May of this year, the Government Accounting Office (GAO) released the results of a survey that confirms that the large numbers of appeals filed by environmental interest groups are delaying efforts to restore the health of our Nation's forests through the thinning of overgrown and diseased areas. These delays increase the threat of severe forest fires which threaten human life, old growth trees, habitat for endangered species and private property. These endless and meritless appeals result in nothing but inaction and increased bureaucratic costs.

If we do not address this problem now, we risk losing many of America's most pristine forests to wildfire devastation. Congress needs to pass legislation to streamline and expedite these forest thinning and fuels reduction efforts.

I believe the H.R. 1904 will accomplish this goal. The Senate compromise to H.R. 1904 is designed to cut through unnecessary red tape and speed up the review and approval process for forest health restoration projects, while at the same time preserving the appropriate environmental review process.

Specifically this bill establishes procedures to expedite forest and rangeland restoration projects focusing on lands near communities in the wildland urban interface; that are in condition class 3 (high fire risk) areas located in proximity to a municipal watershed or water supply system; that provide important habitat for endangered species where the risk of catastrophic wildfire threatens these species; and where insect infestation, disease and old age are destroying forests and increasing the chance of wildfire.

The Senate compromise also contains language for the protection of old growth or large trees in the implementation of hazardous fuels reduction projects. This legislation requires authorized hazardous fuels reduction projects to be consistent with the applicable forest and resource management plans, along with other administrative policies or decisions applicable to Federal land. The amount of acreage eligible for authorized fuels reduction projects under this legislation is limited to 20 million acres.

In addition to allowing for an environmental assessment and expedited administrative appeals, this legislation does allow for judicial review. As a part of this review, this bill requires lawsuits to be filed in the district court where the project is located. It limits temporary injunctions to 60-days, subject to renewal. Finally, this legislation directs the courts to balance the short- and long-term environmental effects of undertaking a project versus those of not undertaking a project.

The problem of excessive forest fuels build is not just a Western problem. It is a National problem. The expedited reduction of forest fuels and the thinning of underbrush would greatly improve the health of Missouri's forests. There has been a significant increase in the buildup of these fuels in National and State Forest land in the State of Missouri as a result of recent tornadoes, several years of drought, oak decline and oak mortality.

Oak mortality is the most pressing problem in Missouri's forests. As of January 2003, oak mortality due to drought, insects, and fungi have affected 41 percent of the Mark Twain National Forest's 1.5 million acres, and caused an estimated loss of more than 30 million dollars' worth of red oak timber. Dead limbs and debris in this area also reduce food for wildlife, and contribute to fuels buildups, which increases the dangers of wildfires. In turn, these wildfires endanger wildlife habitat areas, healthy watersheds and neighboring private lands.

Missouri also has huge volume of dying forest land throughout southern Missouri as a result of infestation by an insect known as the red oak stem bore.

According to Dr. Gene Garrett of the University of Missouri School of Natural Resources, who has studied and taught forestry for over 33 years, ''Roughly 33 percent of the 23 million acres of the interior highlands in the scenic Missouri Ozarks are infested by this red oak stem bore. Dr. Garrett goes on to say that ''this insect and associative disease complex is by far the greatest threat to the oak component of the interior highlands.'' This has resulted in over $1.1 billion worth of timber at risk and an increased threat of wildfire in this area.

H.R. 1904 will address most of the forest health issues in Missouri and prioritize them for expedited cleanup. Section 102(a)(4) of this health forest legislation will specifically address this problem of red oak stem bore and oak decline.

The first of Missouri's two fire seasons is now underway. The most recent high wildfire season in Missouri occurred in 2000 when over 8,700 acres of wooded lands burned—more than 3,000 acres over the 10-year average. By expediting the cleanup or thinning of our forests, Missouri and the rest of the Nation can expect to see the risk of these catastrophic wildfires reduced.

In closing, I believe that H.R. 1904 represents a commonsense approach to forest management based on sound science. I have talked with forest scientists all over the country, including several from my own State, and they believe that this legislation takes the right approach to restoring the health of our Nation's forests. These are actual forest scientists who know what they are talking about—not big city newspaper editorial writers.

If we do not act on this problem right now, vast acres of old growth trees and wildlife habitat will remain at a high risk of catastrophic wildfire. Once these areas are destroyed by fire, there will be very little, if anything, that we can do to restore them to health. Therefore, I urge my colleagues to vote for H.R. 1904, the Healthy Forests Restoration Act of 2003. It is time to put some common sense back into forest management.

It is long past time that we get this done. I really thank the bipartisan group that came together for this extremely important and most needed forest health measure. Again, I urge my colleagues to support it and move it expeditiously.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, forestry can often make Middle East politics seem noncontroversial. I think it is fair to say that today it would be hard to find a topic that is more emotionally flammable than the one that has come to the Senate today.

I begin by saying that right now, my home State—and I see my good friend, Senator SMITH, on the Senate floor as well—is sending resources to California to help deal with the horrendous fires. But I think it ought to be noted, as we begin this discussion, that just over a year ago the State of California was sending resources to my home State—the State that Senator SMITH and I are proud to represent. Just over a year ago, we were on the Senate floor speaking about the huge forest fires that raged in our State. At that time, over 500,000 acres were burning. We had a dozen fires raging at any given time. Seventeen thousand people in one of our valleys alone were on a 24-hour evacuation notice, and 2,500 structures were threatened.

So I think we ought to note, as we begin this discussion, that the legislation before us today is critical, not because of last year's tragedies, or even the tragedies that we are seeing in California today; this legislation is critical to address the tragedies and destruction that, as sure as the night follows the day, will be in the news tomorrow if the Senate doesn't start taking reasonable steps to address forest health policy. It seems to me that is the approach before the Senate today.

Mr. President, this is the bill that is going to go to the President of the United States. For many months now, a group of us—and Chairman COCHRAN has referenced this—have been involved in the negotiations. They are difficult negotiations because passions do run so strong on this issue. But I want to make it clear, for myself and the others who have signed the letter,

that we cannot accept an unraveling of this compromise; that this is the bill that is going to go to the President's desk, and we are very hopeful the President will sign that legislation into law.

It is absolutely critical that the Senate come together on a reasonable plan that is going to help our forests become healthy again and secure the well-being of the families who call these beautiful areas their home.

I believe this bill provides an opportunity to remove fire-prone materials from the forests, boost rural economies, and create family-wage jobs, while at the same time protecting the extraordinary treasures—the land and the environment of the West and our Nation—for future generations.

Let me outline for a few minutes why I think this is the approach that needs to be signed into law. First, this is the only bill—unlike the one in the other body—that authorizes a significant increase in funding for the hazardous fuels reduction projects that need to be undertaken. The other body doesn't authorize a single dollar—not one—for the projects that need to be pursued. As a result, there is tremendous concern across the country that if you were to go the route of the other body, the only people that would really be able to afford to get into the thinning work would be commercial logging companies. That would be a huge mistake. Under the bipartisan compromise that has been crafted, that is not going to happen.

Second, the other body doesn't make an effort to target the dollars in a flexible way so that the work gets done in the communities that most need it in our Nation. The Senate compromise goes to bat for our rural communities by directing that 50 percent of the funding be spent inside the wildland/urban interface where populations are great, but at the same time we can deal with these infernos, these enormous fires that so often start way out in the country and then come into the more urbanized areas.

The other body is silent on this issue. The Senate, after many hours of negotiation—my friend from Idaho and I have literally been talking about this issue for almost 5 years now—strikes a reasonable balance with respect to targeting money for the wildland/urban interface while recognizing that so many of these huge fires start in sparsely populated areas out in the country.

Third, this bill is the only one that makes a historic step forward to protect our old growth, our treasures of the West about which our citizens feel so strongly. The other body has no language at all to protect old growth or the large trees and doesn't limit how projects can be executed.

What the Senate has said is, yes, there are more than 100 definitions of what constitutes ''old growth.'' We recognize that, but throughout the bill we reference the priority to focus on the trees that are not old growth—the smaller trees, the brush—that contribute to this problem. And then, to ensure that there is actually an incentive to protect our old growth, we offer what I think is a creative approach, the kind of approach Senator CRAIG and I offered when we broke the gridlock on the county payments bill years ago so our communities could get revenue for schools and roads. Here, to make sure that the old growth work is a top priority, that protecting old growth is not an afterthought, we say that with respect to the old forest plans, the Forest Service would have to go back and revise the old forest plans to make sure there is actual old growth protection that is going to go forward before the thinning gets put in place.

We have an actual incentive, beyond the statutory language, which is a historic first and would protect old growth. We have a policy that would actually create incentives to prioritize old growth protection because it has to be done first under the old forest plans for thinning work to go forward.

Next, the bipartisan compromise effort keeps the current standard for judicial review of projects and ensures that what we have as a result of the changes in the judicial area, in the appeals area, sends a message across this country that citizens have a right of access with respect to their concerns about timber sales, but they don't have a constitutional right to a 5-year delay on every single timber sale.

The bipartisan group spent a great deal of time on this effort. In my view, the legislation that comes out of the other body would actually change the outcomes of these lawsuits that would rob the judiciary of the independent ability to weigh the evidence put before them. In the bipartisan compromise that was crafted, we strike a reasonable balance. Citizens are going to have a right that is undiluted with respect to access to the judicial system, but we will not set up a litigation derby that goes on for years and years and keeps the essential work from going forward.

Next, the Senate legislation ensures that the public will always be in the debate, will always be in the process and at the table. The Senate compromise allows the public to actually propose alternatives under the National Environmental Policy Act. The bill in the other body basically drives the public out of the process by predetermining these National Environmental Policy Act alternatives.

The Senate compromise preserves all current opportunities for public input and appeal while streamlining the process and eliminating some of the most frustrating and exasperating aspects of bureaucracy. But it is clear, and I want to make this point early in the debate, that not one current opportunity—not one—for public comment would be lost under this compromise.

The compromise requires the Forest Service to rewrite their appeals process using a process that has been used by the Bureau of Land Management since 1984, and the sponsors of this compromise believe this will change a process that is now confrontational to one that is vastly more collaborative.

Finally, much of the argument made against this compromise is very similar to the arguments that were made in 1999 when I and Senator CRAIG and others got together and put before the Senate the Secure Rural Schools and Community Self-Determination Act. They said that was going to restrict the opportunities for citizens to be heard. There were some, when I offered that legislation, who said I was proposing a clear cut for kids program, and we had pickets before our office for over a year. We have some of that same sort of activity going on right now.

That did not happen in 1999 when the Senate moved forward with its first substantive forestry bill in more than a decade, and it is not going to happen again under this legislation if this bill actually becomes law.

I say to my colleagues that this legislation is needed. Some have asked, Why can't the issue of healthy forests simply be addressed by investing in the fire plan? They have said the national Governors made some recommendations, so why don't we just go ahead with those recommendations?

Their suggestions were very useful, but the Governors even acknowledge that simply spending more money, the heart of their proposal, was not the entire answer. How that money is spent is as important as simply offering more dollars.

I have made it clear that I think additional funds are critically important. That is why the Senate bill authorizes an 80-percent increase in funding for these thinning projects, but we also need to make some changes in terms of the endless paperwork and redtape to actually get the real work on the ground that is so important in communities across the West.

A number of Senators have said this is as far as they can go in terms of forestry policy. I know colleagues in the Senate and certainly in the other body feel strongly about it. But I reemphasize, as the Senator who organized that letter, that if there is an effort to unravel the compromise that will be voted on in the Senate, that will, in my view, kill the effort to pass this critically important legislation. It was an urgent priority before the tragic events in California. I think it is urgent not just because the Senate needs to respond in a heartfelt way to the tragedies in California, but if this legislation is not passed, I think we will see what happened in Oregon a little over a year ago and what has happened in California in the last week repeated again and again. I am not willing to see these communities and the people who live in them turned into residents of sacrifice zones. It is urgent this legislation be passed.

I close by expressing my thanks to those who have been part of this 5-year

odyssey and, first, to Senator CRAIG. I served as chairman of the subcommittee when he was a ranking minority member. It is vice versa now. Suffice it to say there are a lot of people in the country who would say: What in the world can LARRY CRAIG and RON WYDEN find common ground on? And we have said again and again in this area that if people are willing to look at what is practical, what is a priority in terms of the thinning work that needs to be done and in protecting our old growth treasures, we can do it. That was accomplished in the county payments bill.

It can be accomplished now. Before I wrap up my remarks, I will read into the RECORD part of a statement today that the administration has issued. It states that the administration strongly supports Senate passage of H.R. 1904, the bipartisan managers' amendment; it opposes any further amendment to assure quick resolution with the House.

I ask unanimous consent that statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration commends the Senate Agriculture, Nutrition, and Forestry Committee for reporting H.R. 1904, which would provide authorities and authorizations for appropriations that in large part are consistent with the President's Healthy Forests Initiative. The Administration strongly supports Senate passage of H.R. 1904 and the bipartisan manager's amendment (SA 1828), but opposes any further amendment, to assure quick resolution with the House. The Healthy Forests Restoration Act will provide the Administration with the needed flexibility to manage public lands wisely, and implement the kind of active forest management that is good for both the environment and our economy. This bill would further equip Federal land managers with the additional tools they need to restore forest health, safeguard habitat and watersheds, combat disease and insects, and protect lives and communities. The Administration is concerned that the authorization level in the Senate bill is well above recently enacted funding levels and above the increased funding levels the Administration requested and continues to support for FY 2004.

The Healthy Forests Restoration Act establishes procedures to expeditiously implement hazardous fuels reduction projects on Forest Service and Bureau of Land Management lands: (1) near communities in the wildland urban interface; (2) on high risk lands in the proximity of municipal water sources; (3) on high risk lands that encompass habitat for threatened and endangered species where federal wildlife officials have identified catastrophic wildfire as a threat to the viability of the species; and (4) on high risk landscapes particularly susceptible to disease or insect infestation. Additionally, the bill would: (1) facilitate the utilization of wood, brush, residue, and other biomass removed in conjunction with forest health projects in the production of biomass energy; (2) authorize federal programs to support community-based watershed forestry partnerships that address critical forest stewardship, watershed protection, and restoration needs at the state and local level (3) direct additional research focused on the early detection and containment of insect and disease infestations; and (4) establish a voluntary private forestland easement program focused on recovering forest ecosystem types in decline.

Mr. WYDEN. I am pleased to see what is the first formal statement of the administration saying that the Senate bill is the way to go. It is an acknowledgment of the fact that a number of us said we cannot have this compromise unravel, and it is a constructive statement from the administration today. I commend them for it.

In addition to Senator CRAIG, who has worked with me on this for literally 5 years, Senator SMITH and I cannot go anywhere in our home State without people asking, when is the Senate going to respond to this? I thank him for his efforts, as well as those of Senator CRAPO, who is in the Chamber. I see Senator BINGAMAN, who has been so helpful to me as I have had to wrestle with these issues that come up in my home State day after day.

We have not agreed on every single bit of this debate for 5 years, but Senator BINGAMAN has performed an extraordinarily important service. He has some ideas on a matter that has been documented in our hearings with respect to how these funds get moved around, almost manipulated, from one account to another when there is underfunding of the thinning work that needs to be done. I thank him for all of his help over the last 5 years. We have spent many hours on this.

With the statement that I have just put into the RECORD that the administration wants this legislation and is opposed to efforts to alter it, I think we are in a position to show the country the Senate can find common ground on an issue that is about as contentious as any imaginable. I look forward to seeing the amendments of our colleagues and getting this critically important legislation passed.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Idaho.

Mr. CRAPO. Madam President, it is an honor for me to participate in this debate, not only because of the importance of this legislation, which I will talk about in a minute, but because of the process which has brought us here and what the public is now observing.

As for the last little while, they have observed leaders on both sides of the aisle talk in support of a highly contentious issue that we have been trying to bring to resolution in this country for years. Today, we have before the Senate a bipartisan solution, one that is the result of literally years of effort by a number of Senators who I will mention, and the result of a collaborative effort to bring together the Senators from various perspectives and negotiate an outcome that would have the common ground to build positive solutions for the future and much more benefit to all sides than the conflict which has been so much a part of this issue over the last few years.

I hope as this debate proceeds that the public will notice what is happening in the Senate today, as we see strong leadership from both sides of the aisle stepping forward, reaching a compromise that probably none of us would have crafted ourselves but which moves the issue much more further forward than anything we have seen in the past.

I will speak for a minute about how this came about. We have already heard several comments today about those who have worked on this from the past. It just so happens that Idaho—Senator CRAIG was on the floor and will be back in a moment—has two Senators who happen, just by circumstance, to be the chairmen of the two forestry committees in the Senate. Senator CRAIG chairs the forestry subcommittee of the Energy Committee. Senator WYDEN from Oregon, who just spoke, is his ranking member. I chair the forestry subcommittee of the Agriculture Committee. My ranking member is BLANCHE LAMBERT LINCOLN, who is a cosponsor of the base legislation, which was initially put forward in the Agriculture Committee and which became the vehicle around which these negotiations centered.

Senator CRAIG, Senator WYDEN, Senator SMITH from Oregon, myself, BLANCHE LAMBERT LINCOLN, Senator DOMENICI, the chairman of the Energy Committee, Senator COCHRAN, the chairman of the Agriculture Committee, both of the Senators from Arizona, Mr. KYL and Mr. MCCAIN, along with Senator FEINSTEIN from California, Senator BAUCUS from Montana, and other Senators came together and said: We must find a way to get past the intense battles that always bring this legislation down and find a way to build a path forward, one that protects the environment, protects the natural resource-based economy, protects our urban and rural communities, and protects the world from the environmental impacts of the devastation of these forest fires. It is that which we have before us today.

I thank my chairman, Senator COCHRAN in particular, for the strong leadership he has provided; and Senator DOMENICI and Senator CRAIG from the Energy Committee who have provided such strong and consistent leadership on this issue.

Why is it that I say this is such an important and critical issue to America? Everybody in America who is looking at the news right now is watching what is happening in California. In California, fires are raging. The death toll is mounting. The devastation to the environment is obvious. What is happening there now is an example of what has been happening across America for years, as we have fallen into an inability to implement forest management decisions in America on our public lands. I do not have the exact statistic in front of me, but I believe the 10-year average is that we have seen something in the neighborhood of 4

million acres of forest ground burn a year. For the last 4 years the numbers were approximately 3.3 million acres this year, 7 million acres last year, 3.3 or 3.7 million acres the year before, and then another 7-plus million acres the year before that.

These acres burn in devastating ways, destroying wildlife and habitat, destroying our forests, and causing other significant damage to rural and urban communities, to natural resource-based economies in States such as Idaho, where we rely on a timber economy.

Another aspect that is not often noticed is it is delivering to the atmosphere immense amounts of carbon dioxide. In fact, I am looking for some of the statistics on this, but the amount of gas that is put into the atmosphere, in terms of the kinds of debates we are having over greenhouse gases and global warming, is phenomenal. To give one example, the Hayman fire in Colorado recently was analyzed and it was determined that in 1 day of that fire's burning, it put enough CO_2 in the atmosphere to equal the amount of CO2 that all of the cars in the United States put into the atmosphere on that day.

If we multiply that times the number of fires we have been having over the years, the load of CO_2 or greenhouse gases into the environment that is caused by the forest fires becomes a monumentally large issue in relationship to our efforts to control global warming.

Forest fires go from the broad issues of global warming to the narrow issues of a small community such as the community in Idaho that I recently visited, Elk City, which I at that time said was ground zero for this debate, a little community that is literally at the end of the road, in the middle of a tremendously beautiful forest in which the fuel load has been building year after year and now has a higher fuel load by several factors than the fuel load in Yellowstone when the Yellowstone fire started a few years ago.

This community has only one road in and one road out. They have been crying for support from the Federal system, to have some kind of protection of their community in terms of just what the threat is to loss of life, let alone the threat of the loss to their economy that would be caused by a forest fire. This little city, Elk City, ID, is as much involved and interested in this issue as are those who are battling over global warming issues. It is for that reason this legislation is so critical to our Nation.

I want to go over a little bit about the compromise, because the compromise we have reached today is a very broad-based critical compromise. It brings together a number of important pieces of the debate that have been counterpoints in conflict in the past and have now come together as part of a commonsense solution.

First, resources are provided in this bill for forest management at a significant level and in a significant way. One of the things we know is that prevention is critical. Madam President, $760 million in annual funding for fuels reduction on Federal lands has been provided in this legislation and that can be used also in related grants for State and private forestry programs. Fifty percent of these resources are required to be used in the wildland/urban interface, one of the critical areas we are now watching as the fires burn in California.

This critical wildland/urban interface is defined by local communities. We implement and follow the recommendations of the Western Governors Association as they talk about the collaborative process that needs to be put into place so citizen involvement can be enhanced in defining and implementing the protection plans for protecting our forests and the related communities, both rural and urban.

Second, this legislation for the first time in legislation proposes specific protection for old growth in the forests. Where there are old-growth stands in the forest, this legislation provides those who are implementing fuel reduction programs must protect those old-growth stands to the maximum extent they can. Conversely, it also provides that hazardous fuel reduction projects are intended to focus on small-diameter trees, thinning, and strategic fuel breaks, and should retain the large trees as appropriate for resilient stands. The point is the focus on small-diameter timber in these fuel reduction programs is going to provide opportunities for some of the communities that have been hit so hard by the reduction of logging and timber activities to find alternative sources for their economy to grow.

In Cascade, ID, we have a company that is trying to get started now, which is providing unique new ways of utilizing small-diameter timber to help in restoring and protecting our environment after fires have gone through, using the very small-diameter timber we are talking about in these forest fire prevention plans.

I should make clear, the focus on small-diameter timber is not to turn our back on the need to reform and solve the problems with regard to timber activity and logging activity. We can and should have a strong, healthy, natural-resource-based environment as well as strong, healthy forests. We can achieve those objectives. This bill is going to help us implement a number of the important provisions that will achieve those objectives.

Next, as the Senator from Oregon has already indicated, it protects public involvement. One of the things it does is it limits the number of alternatives the Forest Service must consider. Our minority leader, Senator DASCHLE, already indicated the expense and the time delay that is caused by the drive, under our current system, to force endless analysis but delaying getting to the implementation part of forest management decisions. This bill requires that in addition to the proposed fuel reduction program that is adopted by the Forest Service, the Forest Service must also consider the ''no action'' alternative, and at least one other alternative, if it becomes appropriate under the collaborative process that is moving forward, allowing for citizens to propose alternatives and have the Forest Service consider those alternatives as the process moves forward, but providing some relief so the Forest Service can get on with the decisionmaking.

In addition, what I have called litigation paralysis is addressed. One of the problems we face in forest management decisions today, possibly the biggest one, is that under our current system, no matter how much evaluation and study is put in, no matter how many alternatives are considered, at the end of the day the proposal that is adopted is litigated and we end up in paralysis through continuous litigation that simply stops the process from moving forward.

Let me give an example. A couple of years ago I went to a forest in Idaho. I was taken there by the Forest Service employees who had proposed a thinning project to address an insect infestation problem. They explained to me why this forest, both in terms of forest fire and in terms of its health and safety against insect infestation, needed to have this thinning project proceed.

I was impressed with what they taught me. I went away thinking this forest is going to have some improvement. I went back to the same forest several years later. No thinning activity had taken place. I was there with the same people. I asked them what had happened. They advised me they had their decision challenged in court and, although they had ultimately prevailed in the litigation, it was now 2 years later and it was too late. The insect infestation had gone too far; there was no point in doing the thinning project. The forest for that purpose had been lost. It is now a fire hazard, not to mention the fact the health of the forest itself has been sacrificed.

The Forest Service won the litigation, but the delay of the litigation stopped the ability to implement the management decision. That is just one example of the kind of thing we are talking about.

By the way, in that case I said, What was the issue? They explained to me the issue that was litigated.

I said, Why didn't you just concede that. It was not that big of an issue.

They said, The way we won the litigation is to basically concede that point and then ask permission from the court to go on because it really wasn't central to our efforts.

The response they gave me was: This issue was never raised as we were putting together the alternatives, going through the NEPA project. We didn't know we were going to get challenged on this or we could have accommodated it as we were moving along.

My point is that an entity, a group that wanted to stop this thinning project, sat back and let the entire process proceed without ever raising their concerns in the citizen involvement process. They waited until that entire process had come to a conclusion and then filed a lawsuit. The first time the Forest Service found out about this issue was then.

These kinds of issues are addressed in this bill. For example, we are requiring the Forest Service to develop a new appeals process that is similar to the predecisional appeals process the Department of Interior now uses. This is important, because it gives those who are concerned about good decisionmaking at the Forest Service, and who are already involved in the public process, the ability to challenge that through an appeal before the final decision is made, a predecisional appeal process. Then if they still do not like the outcome, nothing stops them from filing a lawsuit at the end of the process. We are expanding and enhancing the ability of involvement here by the public.

However, we are saying to individuals and groups who want to challenge these decisions you must get involved at the beginning. Those who want to challenge these decisions must show they have been involved in the process and participated in the public involvement process from the beginning. They also must show they have exhausted their administrative efforts, their administrative remedies. If they have a remedy with the Forest Service, they should go to the Forest Service through its appeals process, and exhaust that process first before simply filing a lawsuit and moving the whole process into litigation paralysis. With the enhanced citizen involvement we have provided, once a decision gets made, if there are those who are still unhappy, they have a right to file a lawsuit under this legislation.

What the courts must do at that point is expeditiously move the litigation. In the legislation the courts are encouraged to expedite these cases.

Second, this legislation limits the injunction that the court can issue to 60 days and allows continuous unlimited 60-day renewals but requires those who would come into court to simply stop anything from happening to show the court at 60-day intervals updated information that the grounds for stopping the action still exist and they haven't been resolved in some way.

Finally, it requires the court to balance the harms of what would happen if we don't do the thinning project or the proposed fuel reduction project, future harms that could come as a result of that against the current harm of what the injunction is proposed to stop. It simply requires a court to balance those harms as they evaluate whether to issue an injunction.

There are those who say the injunction should be issued no matter what because once a tree is thinned or cut it can never be put back. The response to that is, as true as that is, if you look to the future and to the future harms, once the insects take the forest, you can't bring it back easily, and those trees are dead, too. Once the forest burns, you can't then rebuild a healthy forest that you would have been able to do had you implemented these decisions.

All we are saying in this legislation is that the court must balance the harms from inaction against the harms of the proposed action in terms of issuing the injunction.

These are important factors that will help us break the litigation paralysis but still provide significant public input and significant public support and the rights of the public to challenge the decisions made by the Forest Service.

There are a number of other important parts of this legislation. There are critics of this legislation, and I assume that at some point throughout the debate today and tomorrow—as long as it goes—there will be an opportunity and a need to respond to some of the charges about this legislation. I will not go into all of that now.

I will simply conclude by saying again what we have before us today is a bill that is probably different than any one of the Senators who came together from both sides of the aisle would have drafted if they had drafted it on their own. But it represents a bill that goes to every issue that has been the cause for stalling which has stopped us from being able to get the legislation through, and it has resulted in compromising to move us forward in every one of those areas. We provide the resources. We provide protection for old growth. We provide protection for public and citizen involvement. We assure that the process for litigation is streamlined but is still meaningful. And, most importantly, we make it so that once our forest managers—those who have studied, the scientists who know what our forests need—have come up with a plan and have made it through the public process and through litigation they will actually have a real meaningful opportunity to implement forest management decisions.

This legislation is critical for Americans. It is unfortunate that we have to be debating it while we are watching California burn. But nevertheless the pressure from the forest fires over the last few years has shown us across America that it is time for us to come together as we have on this legislation and take this important step to protect our forests, to protect our natural resource base economy, to protect our communities, and to protect the world.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Madam President, I rise today in strong support of the H.R. 1904 title I compromise reached by many of my colleagues on both sides of the aisle. I commend them for their work. The issue we take up today is vital. It is important to our ecology and it is important to our economy.

When I first entered public life as an Oregon State Senator in 1992, the Pacific Northwest was embroiled in the spotted-owl wars. There was a great debate—and there has been ever since—about what to do with our public resources and how they ought best be managed.

In the course of this debate, I have through my public office tried to weigh in on the side of those who elected me to public trust. I come from a part of my State that is rural. I have as my neighbors farmers and foresters. I have seen in their eyes the desperation that comes from watching the slow undoing of their industry and in recent times the destruction of even their homes. I watch with great sadness as we view many of our fellow citizens from California view the ashes of their lives as a result of catastrophic fires that surround their communities and burn up their homes. Their cries are heart wrenching. I expect because they are heard so clearly in this body that we are now taking up this legislation that has long been overdue for our country's sake. But long before I heard the cries of Californians, I heard the cries of Oregonians.

In the State of Oregon, from the spotted-owl wars we have laid off tens of thousands of workers. We have watched their lives be undone in rural communities. We have closed our mills, and we have since watched our forests burn. Now my State leads this country in both hunger and in unemployment, and it has much to do with the forest policy of this country.

Timber is a renewable resource. It is the one natural resource that grows back constantly. It is safe to say—indeed even provable to say—that in the State of Oregon today there is more timber growing than when Lewis and Clark went there 200 years ago. That is because for a century while we have harvested trees, we have replanted what has been harvested. But if you listen to the great newspapers of this country, the New York Times and the Washington Post, and you actually believe what they purport to represent about my State, you would come away with the impression that we are about to cut down the last pine tree in the Pacific Northwest. But, again, the truth is much different.

What we see in California—and so often in the Pacific Northwest, Montana, Idaho, Oregon, and Washington—is that these fires, which are a normal occurrence in forests, are now on a scale that is truly haunting. We are leaving millions of acres no longer as old-growth forest but as literally moonscapes.

What I want my colleagues to understand as we go into this debate is that many of the forests which environmental groups have pled that we protect are in large part gone or in serious jeopardy. They are not gone because of logging. They are not gone because of

road building. They are not gone because of development. They are gone because of bureaucracy, bugs, and burning. Now we find that so many of our forests have carbon dioxide in the air and charcoal match sticks on the ground.

Here is a visual which shows a fire this summer around the Bend, OR, area. This is a fire the previous summer, the Biscuit Fire in the Siskiyou National Forest.

What we are finding in places such as this fire is trees aren't growing back; rather, brush is growing back so that, particularly, new trees can't grow. Yet we are not allowed to go in there and manage the soil. It is growing so thick that it may be a long time before trees ever begin to manifest themselves. The Biscuit fire was the largest in Oregon recorded history. It is also a monument to the mistaken notion that wrapping redtape around our forests will save them from wildfires. Wildfires do not stop at lines drawn on a map. This we see clearly in California today.

Another area is the Rogue, Siskiyou National Forest. So the public understands the extent of this devastation, this fire was larger than the State of Rhode Island. It was four times the size of the District of Columbia. In this forest, 85 percent of the roadless area that was designated is gone; 77 percent of the Kalmiopsis Wilderness in the same fire is gone; 68 percent of the wild and scenic river corridor is gone; over 70 percent of the spotted owl habitat in this enormous area is gone. Those birds have been burned up.

The message from the ground could not be clearer: Catastrophic wildfire, not logging, not roadbuilding, not development, is killing forests in Oregon. I like the words of Oregon's former Governor, John Kitzhaber, who, after seeing the fires, said: If we burn down the forests, we are not going to have a resource to argue over.

He was right. And we are right to pursue this legislation today.

I say to my colleagues that there may be some doing the bidding of environmental organizations that will come to the Senate and will offer amendments designed to kill this legislation, so that the health of our forests cannot be ensured.

Many of my colleagues on the Democratic side have shown enormous courage. Chief among them is my colleague, RON WYDEN, in coming up with a compromise.

I plead with all of my colleagues, Republican and Democrat, that they hold to this agreement that the Democratic leader has now endorsed. This has to happen for our country's sake. It is literally a life-and-death issue. I plead with those who have amendments to think again about it. This legislation truly needs to pass.

I was struck by a comment on the Web site of the Sierra Club. I understand one of the amendments may be a roadless initiative. That may be fine to debate in isolation or as part of a separate piece of legislation, but if presented to frustrate this agreement, it is truly unfortunate. The Sierra Club Web site tells us that roadless forests ''provide sources of clean water to millions of Americans, essential habitat for wildlife, and special places to hike, hunt, camp and fish.'' That is true, unless what can be seen in this picture happens to the roadless area.

We have every reason to pass this moderate legislation. Many on the Republican side would have crafted something that goes even further than this legislation. We would have done something like the House of Representatives, which I endorsed. We are now holding to this agreement. We will be voting against amendments, even ones we may like, that are designed to kill this legislation. I hope everyone will hold to the deal. If we hold to the deal here, we will hold to the deal in conference, and that will leave America's forests and America's foresters the better.

For the sake of our ecology and the sake of our economy, I urge the passage of this bill and thank all of my colleagues, Republican and Democrat, who have had a hand in crafting this Senate compromise. They have done their work and will leave our Nation better.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I will talk about the bill pending and share some thoughts and concerns I have about the bill.

This is not a matter of light substance that is before the Senate. This is not a bill that we can take a wink and a nod and let it go because everyone agrees this is a unanimous consent bill. It is true that it did come out of our committee, the Agriculture Committee, on a voice vote. We reached agreements to go ahead and get it to the floor.

There are a lot of things in the bill I can agree with, that I think are good and necessary; there are some other things about which I have concerns and a lot of Senators have concerns. This is a bill that is open for amendment. There will be a number of amendments offered to this bill to try to strengthen it and to answer some concerns people have.

I am somewhat amazed when we come out with legislation and it deals with sensitive environmental issues and we are told certain environmental groups have concerns and we will hear about the environmental issues so that somehow, if you are a member of an environmental organization, you are opposed to progress, you are opposed to jobs, you are opposed to doing things that might make life better for some people in certain areas. It is almost as if ''environmentalist'' is a bad word. I don't think it is. I think being pro-environment and being an environmentalist is a positive attribute.

I compliment those in our country, many of whom work for nonprofit organizations. I have a number of letters from them that I will have printed in the RECORD. They toil endlessly, tirelessly, sometimes for no pay, sometimes for little pay, to ensure that future generations of Americans have a good, healthy environment, that those who like to hunt have areas in which we can hunt, where we have healthy wildlife areas.

I am proud of the fact that in our last farm bill we had the biggest increase ever in conservation, an 80 percent increase. To me, this is not only pro-environment; it is pro-economy; it is pro-jobs; it is pro-growth but growth in a way that is sustainable, not just for our time and our place but for future generations.

That is why the Healthy Forests Restoration Act of 2003 is not something that can be lightly passed through. We have to look at it and talk about it. I compliment those who have worked hard to reach agreements and tried to reach compromises on this legislation. That is all well and good. I compliment Members on both sides of the aisle. They have worked very hard to get to a point where we have a bill that has broad support. I don't deny the bill has broad support. That does not mean those who have some concerns about certain aspects of the bill could be stopped from talking about it and offering amendments. That is what the legislative process is all about.

We will proceed in that regard deliberately, not in a way to stop anything. This is not a method of slowing down the bill or taking an undue amount of time, but it is ensuring that we do look at the bill carefully; that the public is generally aware of what is in the bill; that those who perhaps do not spend a lot of time looking at these things—and I am the first to admit this is not an area of my expertise, but as the ranking member of the Agriculture Committee, charged with the responsibility of legislation that impinges upon our national forests that comes under our jurisdiction, I make sure I have good staff who understand the impact of forest legislation. And I have taken the time to study it myself to the extent I have had the time to do so.

I do not pretend to know all the ins and outs of forest legislation as much as my friend from Oregon, for example, who has spent his adult life working on this, or the Senator from Idaho and others who I know have put a great deal of time in this. But that does not lessen my concern about certain aspects of the bill and its impact on our environment. So we will have a discussion and we will have amendments.

Preventing damage and injury to communities is of paramount concern to all of us, especially now with the tragic wildfires in California that show clearly the dangers these communities face. Of course, our hearts and our thoughts go out to all those families in those communities that are affected by these wildfires.

Now, again I point out that this bill passed by a voice vote to allow us more

time in order to reach a consensus on this agreement, and that is the substitute amendment offered by Chairman COCHRAN. The vote out of the committee was not—and I wish to state this very clearly—any kind of unanimous endorsement of the bill as a whole. It was merely our agreement to move the process forward.

The legislation before us purports to focus the Federal Government's efforts to reduce the dangers of wildfire and improve forest health. Now, of course, all of us want to achieve this goal so that our communities out west can be better protected from catastrophic wildfires, so that forest areas around the country can better cope with the onset of disease and insect infestation, and so that we can improve the overall health of our national forests and public lands.

I am heartened that several Senators from both sides of the aisle have endorsed a legislative compromise to title I of the bill. This, of course, is the title that has drawn the most focus because it covers hazardous fuel reductions on Federal lands, and, as such, it is also the most controversial portion of the legislation. I believe it is a step in the right direction. I believe it comes up a little short, and that is why we will have some amendments in that area.

Again, I will say that much of the bill is worthy of support. In addition to title I, there are seven other titles, ranging from watershed forestry assistance to rural community forest enterprise programs, with others, and again the bulk of these provisions are non—I will not say not debatable, but they raise no really contentious issues. But I would like to take this time to talk a little more about title I.

Simply put, I still continue to have some serious concerns about this section. For one, the bill lacks sufficient targeting to conduct hazardous fuel work in the areas that need it the most, which likely might waste limited Government dollars. The Forest Service's own research has concluded that the areas immediately surrounding homes and structures are where the fuel cleanup should be done, as it is the most effective and cost-efficient method for reducing fire risk.

The language in the bill requires that only 50 percent of the hazardous fuel dollars be spent in what is known as the wildland/urban interface. Again, because of the bill's loose definition of the interface or of the community protection zone, land miles away from homes and other structures could qualify. Ensuring that a higher percentage of this work would be done in the areas at risk to human life and property would vastly enhance our community protection efforts.

Again, there is no definition of the size of a community. So one has to ask: Just what kind of communities are we talking about? Well, I happen to come from a town of 150 people. I live there. To me, that is a community. Two or three houses out someplace, to me, is not.

As I was saying to my friend from Oregon earlier, if someone wants to build a house out in an area that is on the ocean, that is subject to hurricanes and tidal waves and weather such as that, they take their own risk. If they want to do that, they are at risk. If they want to go where the floods happen and a hurricane comes up and wipes a house away, well, it is not primarily the Federal Government's responsibility, it is not primarily the taxpayers' responsibility to go out and build seawalls to protect that house. If someone wants to build a house in an area where there are mud slides all the time, it is not our responsibility to come in and build up structures to protect that house from a mud slide. If they want to build it on the side of a cliff, God love them. If they can get the insurance for it, fine, but it should not be the taxpayers' responsibility.

So if someone wants to build a house out in a wilderness area, fine, I have no problem with that. They can do that. But I do not know that we then have the responsibility as taxpayers to come in and say we are going to spend millions of dollars to protect your house from a wildfire. Now, where that cutoff is, I do not know. I am not here to say the cutoff is 150 people or 200, but there has to be some better definition of structure for communities.

The way the bill is right now, we could spend a lot of money going out and cleaning out the brush. And, by the way, I will have something to say about that. We are not talking about brush. We are talking about trees. It could be miles, tens of hundreds of miles, away from any community. So again I question whether that is where we want to put our resources.

I understand there may be an amendment, or there will be an amendment offered to raise that 50 percent threshold to something more akin to 70 or 75 percent, which I think is maybe more where we ought to focus our resources, with the very few dollars that we have.

Secondly, the bill could also be interpreted to allow logging on virtually all Federal lands other than wilderness or wilderness study areas. This means national monuments and other areas could be logged in the name of wildfire prevention. The old growth language contains numerous exceptions so large that even ancient trees, trees that were around before our country was a country, could be logged.

The President traveled around the West this summer arguing that we need to remove small trees and brush from damaged forests. The scientific community agrees with him. But these same scientists tell us that cutting bigger and older trees can actually make fire risks worse. Logging, after all, is a part of what created the fire conditions that this bill is supposed to address.

Now, you might say: Well, how can that be? If you cut down trees, how can you have forest fires? Well, by logging, by taking out certain trees, you leave a lot of brush, you leave a lot of stuff on the ground; plus, you take out some of the overhang of the ancient trees that tend to keep the risk of brushfires down; plus the fact, when you do logging, of course, you put in roads. Whenever you have a road, then you have people coming in. When you have people coming in, they are building campfires and doing things such as that, and that also increases the risk of fire.

Another problem I have with this legislation is the lack of protection for roadless areas, those areas of our national forests that have wisely been left free from most logging and roadbuilding to ensure their protection. In fact, this bill does not restrict roadbuilding at all—at all. So you could have permanent roads built anywhere under this bill.

If we did restrict some of this roadbuilding, we would have less fire risk, and greater ecosystem benefits. This is because the forests in these undeveloped areas have experienced less damage by past management practices. They are much less in need of remedial work themselves. And they tend to be the furthest away from homes and communities. Moreover, scientists tell us that fires are more common and larger in developed forests. As I said earlier, roads bring people. People bring accidents that start fires.

While I am a strong believer in access to public lands, it depends on what kind of access we are talking about. We have to realize building roads to reduce fire risks can be very self-defeating. So I am concerned about a lack of protection from the building of roads in currently roadless areas.

Some people say this is a contentious issue. It is an important issue. It is one that concerns a number of environmentalists and other people around the country, especially those who have tried to protect our natural forests that have been left free from logging.

The bill also limits the reach of what may have been called the heart of NEPA, the National Environmental Policy Act. I know there are some who would like to get rid of NEPA completely, just get it off the books. There are some who would like to see that happen. But NEPA is the heart of our environmental policy. Simply put, it requires the Federal Government to look at a reasonable range of alternatives to any proposed course of action. Yet the language in this bill arbitrarily restricts a full and robust environmental analysis to only the agency's preferred alternative, a no-action alternative—which is really not an alternative because a no-action alternative means you don't do anything—and possibly one additional alternative.

It boils down to the fact that NEPA would be required to look at two alternatives, not a reasonable range of alternatives but two. The one alternative doesn't even have to be environmentally preferable. It could be a proposal for more and heavier logging of

big trees. Again, this effectively undermines what has been called the heart of NEPA; that is, to look at a reasonable range of alternatives to a proposed agency course of action.

What this bill basically could leave us with is one alternative. That is not what NEPA was intended to do. It calls for a reasonable range of alternatives. This effectively undermines a landmark law of immense value—a landmark law that has been in existence for about 30 years.

We will hear from some who say that the NEPA analysis takes time; it costs money. What we won't hear is how important this time and money is for realizing better outcomes.

NEPA analysis is designed to ensure that more effective or more efficient approaches are considered before an agency reaches a final decision on how to proceed with a project. Too little attention has been paid to date to the fact that thinning may or may not be effective in reducing fire risk. The scientists tell us that it needs to be designed carefully and in light of many site-specific factors, if it is likely to succeed.

There is the general perception that if we just go out and clear out all that underbrush and take out trees, certain trees, it is going to protect us from forest fires. That may or may not be true, depending upon the site and the specificity of what they are doing. That is exactly why we need good, solid NEPA—National Environmental Policy Act—analysis for this work, particularly the larger the projects and trees involved and the more sensitive the places. Otherwise, if we don't consider alternatives, we will be wasting time and taxpayers' money that we can't spare on projects that don't help and may even hurt in terms of protecting against wildfire.

We ought to look more closely at the Forest Service and Bureau of Land Management inefficiencies in carrying out their NEPA obligations rather than attacking what has been referred to as the Magna Carta of environmental law. Routine forest health projects can confidently proceed without lengthy environmental review, as long as they stick to small trees and brush, developed forests, and no new roads. Once you get into that, that is when we need the environmental review.

I also want to make clear from the beginning that you will hear a lot of talk about small trees and brush. It is my understanding that these small trees can go up to 12 inches or greater in diameter and that these are the trees that loggers want now. These seem to be what is in demand. I am not a contractor. I don't build houses and stuff like that. But I am to understand that these are the ones most in demand right now, trees up to 12 inches and greater in diameter. That is a pretty good size tree. That is not brush. But that is what we are talking about here, going out and clearing those trees. That is why we need a good, healthy NEPA analysis of what we are talking about, what the alternatives could be.

The bill before us also exempts hazardous fuel projects from the normal administrative appeals process for what we are told will be something similar to the BLM's appeals process. This predecisional process, it is argued, will help expedite projects toward their completion by making projects more collaborative and less confrontational.

But this new, undefined process threatens to cut out or unfairly limit citizen participation in agency decisions. The bill currently does not have meaningful standards for the new process to ensure that all the talk we hear about preserving public participation is fulfilled.

Let me repeat that. The bill before us does not have meaningful standards to ensure that we preserve public participation to the fullest. This is not good public policy. These national forests belong to us all. They belong to you and they belong to me. They belong to you and they belong to our kids and our grandkids and future generations. The public ought to be participating and should be heard and should have meaningful participation in agency decisions regarding forest policy. The bill should spell out the Forest Service appeals process. It does not do that. So we don't really know how the public is going to be involved. The language may provide too much discretion and too little accountability to the public. This needs to be cleared up.

Let me say a few words about the judicial review provisions of the legislation. I do not believe they represent a major response to the situation. Among other things, the bill limits preliminary injunctions to 60 days. You do have the right to renew, but it limits it to 60 days and stipulates that courts balance the short- and long-term effects of undertaking and not undertaking a hazardous fuels reduction project.

The limit on injunctions will make additional work for judges that could actually slow them down in reaching a final decision. The balance-of-harms language in the bill is unnecessary and intrusive, as courts have always done this. Moreover, the presence in this bill of that language could be read as implying direction to change the current process in some way. This could tilt the scales to one side or another regardless of the facts in a particular case.

Again, let me point out something else we hear about: the flood of lawsuits. There is no flood of lawsuits clogging up the courts and preventing us from moving ahead in hazardous rules reduction projects. The GAO study of hazardous fuel reduction projects found that only 3 percent of all fuels cases were litigated in 2000 and 2001, covering only 100,000 acres.

I will repeat that. Our GAO—our investigator—found only 3 percent of the hazardous fuels cases were litigated in 2000 and 2001, and plaintiffs were often not environmental groups but local communities, outdoor enthusiasts, and timber interests. Of the 762 cases, only 4 were delayed by court order during the litigation. Again, out of 762 cases, only 4 were delayed by court order during the litigation, and that is about five-tenths of a percent of all the cases.

Yet we are told we have to do something here to clean up the plugging up of our courts by all these environmentalists, that litigate and come to court to stop the agency from proceeding. Nonsense.

With regard to appeals of agency decisions, the argument that there is some sort of crisis holding up these projects simply doesn't hold water. The Forest Service and the Bureau of Land Management's own database lists about 3,500 fuels reduction projects they conducted between 1998 and 2002. About 250 were appealed. Out of 3,500 projects, 250 were appealed. This is about 7 percent. There is a 7-percent appeals rate for all of their fuels reduction projects nationwide. In other words, by the agencies' own count, 93 percent of their projects went through with no appeal whatsoever. Yet we are told there is some sort of ''appeal crisis.'' Well, the facts just don't support that.

The GAO and similar studies have found the main reasons that projects could not proceed were weather related and the diversion of funds to fight wildfires. Now we are getting to the crux of it. Roughly a third of the delays were due to a shift in money from preventative projects to firefighting, which last year cost more than $1 billion. That is why we need more resources out there—not to shift the resources we have now but to have more resources out there for preventative projects.

Again, the main reason the projects could not proceed, according to the GAO, is weather related and the diversion of funds for wildfires. Other reasons include public resistance, regulatory demands, unpredictable funding, and inadequate staffing within the agencies.

Yet the administration and some of my colleagues would have us believe the agencies cannot get the work done due to appeals and litigation by environmentalists and environmental organizations. This simply is not true.

Well, are there some problems getting the work done? Yes, there are. Does this bill have provisions, including new programs, that are worthwhile? Yes, I have already stated that to be the case. There are a lot of good aspects to this bill. Is this bill the best way to protect our at-risk communities and the environment from wildfire, disease, and pest infestation? Well, I don't think so. I think there could be some changes made to this bill that would make it even better.

What is even more troubling about the legislation is that it comes on the heels of some very harmful actions recently taken by the administration and

the Forest Service to weaken environmental protections, weaken public participation or public scrutiny of agency action—the cumulative effect of which could be to seriously degrade the health of our national forests and public lands that the bill's proponents seek to protect.

The Administration, through regulation, has ''categorically excluded timber'' sales up to 1,000 acres from NEPA analysis as long as trees are cut in the name of fire prevention. So you can go in—a thousand acres would be pretty substantial in some areas. You can go in and cut down 12-inch or greater diameter trees in the name of fire prevention. No NEPA analysis is needed. They are shelving administrative appeals for these projects under NEPA; they are curtailing environmental analysis for entire forest management plans and ending public appeals of the plans. Proponents of this bill are even cutting out endangered or threatened species consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, and preparing to jettison protections for roadless areas.

In other words, the administration has taken a largely one-sided view of Federal forest management. That is, thin or cut first and minimize environmental protections and public input through the regulatory and legislative process.

The upshot is that, combined with this bill as it now stands, we could see widespread, heavy logging of mature trees, even in pristine roadless areas, without the benefit of public environmental review, pursuant to overarching plans that also lack NEPA compliance, bereft of interagency consultation or meaningful public appeals, and subject only to modified judicial review. In this scenario, there could be a major increase in Federal timber sales with little public understanding or input and even less agency accountability. I believe this is bad governing, bad policy, pure and simple.

Now, while I recognize the legislation probably has the votes to pass, I believe we can and should do better. There will be amendments to attempt to do this. We have seen several alternative bills offered in the past several months. We should better target funds to have work done in this wildland/urban interface, as it is called, or the community protection zones. We should vastly increase funding for hazardous fuels work on Federal and non-Federal lands. That is the crux of it. We should have more comprehensive protection of old-growth and large fire-resistance trees. We should avoid unnecessary and largely unprecedented attacks to our independent judiciary. And we must maintain full and vigorous public participation in the care of our national forests and public lands, while expediting projects to reduce wildfire risks to at-risk communities.

As I have said before, these public lands and these national forests belong to us all, not to a timber company, not to someone who builds a beautiful home out in the middle of a wilderness area and wants us to spend taxpayer dollars to protect them from a wildfire. These national forests belong to all of us, and public participation and agency decisions dealing with public lands and public forests ought to be in the forefront, not in the background.

Otherwise, if we move ahead in this manner, we are inviting the waste of limited time and resources that it is our responsibility to ensure are directed at stated priorities of community protection and removal of small trees and brush. As drafted, I am concerned that this bill will not accomplish that urgent goal, will not ensure adequate public participation, and will not help to end the controversy and gridlock that has plagued this issue for some years.

I hope we will have a reasonable debate on this bill. Certainly, there will be amendments to it; I don't know how many and who will offer them. Some have come to me saying they had amendments to offer. I think they will take some time to dispense with, which is appropriate given the significance of the policy changes proposed in H.R. 1904. We must carefully scrutinize what is in the bill and see if there are ways to improve it.

I ask my colleagues on both sides to wait and see how these amendments proceed before judging the ultimate merit of this legislation.

Madam President, in closing, I wish to have printed in the RECORD some material. First is an editorial that appeared this morning in the Washington Post called ''Fire Damage.'' I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FIRE DAMAGE

With terrifying intensity, fires are burning across Southern California and Mexico this week, proving once again that natural disasters can be no less devastating than the man-made kind. They have already killed more than a dozen people, destroyed more than 1,500 homes and burned half a million acres. A staggering 50,000 more homes are thought to be under threat, as the fires, fanned by desert winds, move into the Los Angeles and San Diego suburbs. It's a genuine national tragedy—and one that shouldn't be misused for political purposes.

Unfortunately, that is a distinct possibility. The fires happen to have arrived just as the Senate is wrestling with a bill, already passed by the House, which is supposedly designed to help prevent catastrophic fires. In theory, the bill would address the environmental imbalance that has developed over the past several decades from the Forest Service's misguided policy of preventing all forest fires, even the low-level fires that once cleared away brush and young trees from old forests. Without these periodic fires, forests have become much denser, and big fires are far more damaging than they used to be.

But although foresters and scientists now recognize this problem, brush is still not being cleared away fast enough. Why? The House Republican authors of the forest bill blame overly bureaucratic environmental regulations. Accordingly, their bill attempts to loosen the procedures that the Forest Service must go through before it can carry out ''fuel reduction activity''—a change that would also help the timber industry dodge objections to the cutting down of older forests. This explanation does not stand up to close scrutiny. Last week, the General Accounting Office released the final results of its study on fuel reduction activity and discovered that of the Forest Service's 818 applications to cut brush, only one-quarter were appealed. Of these, 79 percent were processed within 90 days. What is hampering the process is not environmental litigators but finances. To carry out more brush-clearing operations, the Forest Service needs more resources.

But the Forest Service is unlikely to get significantly more resources anytime soon. It would therefore make sense for Congress, instead of passing laws that appear to be largely of benefit to the timber industry, to encourage the Forest Service to spend whatever money it does have on brush-clearing projects closer to human communities. Sen. Dianne Feinstein (D–Calif.) has helped write a compromise bill that would instruct the Forest Service to spend at least 50 percent of its fuel reduction resources on precisely that. Although this is the right approach, Ms. Feinstein has received no guarantee that her bill won't be completely rewritten by a Republican conference committee, as has lately become common practice.

In the absence of such a guarantee—which would have to come from the White House—it's probably better to pass no bill at all. We retain just the slimmest hope that the California blazes might cause members of Congress to redirect their energy toward saving people and homes, and away from helping loggers cut down mature trees.

Mr. HARKIN. Madam President, the editorial basically states that what is happening in California is a genuine national tragedy and one that shouldn't be misused for political purposes. But, unfortunately, that is a distinct possibility, the editorial says. It says the fires happened to arrive just as the Senate is wrestling with a bill supposedly designed to help prevent catastrophic fires.

The editorial goes on to question whether or not the bill before us really does accomplish that goal.

Also, I have a series of letters from different environmental groups. When I say ''environmental groups,'' I do not use it in a pejorative sense. I use it in a very supportive sense. First is a letter from about 200 different environmental groups alphabetically from the Alaska Wilderness League to the Yosemite Area Audubon, California—from A to Z—that basically are opposed to this version of the bill.

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR: The Senate is poised to take up H.R. 1904, the Bush Administration's Healthy Forests Initiative. You may have heard that a bipartisan compromise has been struck, reputedly brokered by the Bush Administration. Even with the new language, the bill still seeks to interfere with our independent judiciary, cuts the heart out of the

National Environmental Policy Act (NEPA), and undermines the public's legal rights to meaningfully participate in decisions affecting our public lands. Not only will this bill set dangerous precedents by weakening environmental laws and judicial independence, it also fails to require agencies to prioritize protection of homes and communities. Furthermore, the Bush Administration and its allies in the House are likely to insist on a much worse, anti-environmental bill in conference committee.

Impact on our independent judiciary: H.R. 1904, as passed by the House, undermines a fundamental, century-old legal principle—the rights of Americans to seek fair and equitable redress in the courts for grievances involving the federal government. The Senate substitute also interferes with how judges manage their courtrooms by ordering courts to lift preliminary injunctions and stays after 60 days, unless they are affirmatively renewed by the court. Moreover, the bill could provide agencies a new tool to slam the courthouse door on citizens by requiring all legal issues to be raised during the administrative review process.

Public input: The Senate substitute seeks to replace the current statutorily-established appeals process with a new process that does not allow appeals of final agency decisions, making it more difficult for Americans to challenge damaging projects and have a meaningful say in public land management.

Environmental protection: The Senate substitute seeks to weaken the most important part of NEPA—the requirement that agencies consider a full range of alternatives to agency proposals with environmental impacts such as logging and road building. The amendment invites gamesmanship by agencies that would effectively nullify the alternatives requirement, which the courts have called the very ''heart of NEPA.'' In addition, Title IV eliminates environmental review for a category of logging projects up to 1,000 acres in size—an area approximately the size of 1,000 football fields—which would exclude all public review, comment and participation.

Community protection: The Senate bill does not ensure any increased protections for homes at risk of wildfire and does not ensure any funding for work on local, state or tribal lands for methods proven by the Forest Service Fire Research Lab to protect homes. Furthermore, it is not consistent with the Western Governors Association's Ten-Year Strategy for reducing wildland fire risks. Communities need and deserve real protection, which requires fuel reduction focused close to homes and communities.

Old growth and roadless forests: The Senate bill attempts to safeguard our old growth forests, but the language offers an open invitation to abuse. Furthermore, the amendment fails to protect roadless areas.

The Bush Administration's ''Healthy Forests Initiative'' fails to deliver on community protection. Please oppose the Senate version of H.R. 1904: uphold our independent judiciary and our environmental protections.

NATIONAL ORGANIZATIONS

20/20 Vision.
Alaska Wilderness League.
Alaska Coalition.
Alaska Rainforest Campaign.
Americans for Democratic Action.
American Lands Alliance.
Conservation Leaders Network.
Center for Biological Diversity.
Co-op America.
Defenders of Wildlife.
EARTHJUSTICE.
Friends of the Earth.
Greenpeace USA.
Herpetologists' League.
John Muir Project.
National Environmental Trust.
National Forest Protection Alliance.
Natural Resources Defense Council.
National Wildlife Federation.
Pacific Rivers Council.
Sierra Club.
Sierra Student Coalition.
U.S. Public Interest Research Group.
The Rewilding Institute.
The Wilderness Society.
Wildlands Project.
World Wildlife Fund.

COUNTY COMMISSIONERS

Supervisor David Colfax, Mendocino County, CA.
Supervisor M. Byng Hunt, Mono County, CA.
Board Member Carol Calabresa, Lake County, IL.
Commissioner Peter Sorenson, Lane County, OR.
Commissioner Farley Toothman, Greene County, PA.
Commissioner Ed Tinsley, Lewis and Clark County, MT.
Supervisor Paul Newman, Cochise County, AZ.
Council Chairman Guy Guzzone, Howard County, MD.
Commissioner Katy Sorenson, Miami-Dade County, FL.
Council Member Bob Jacobson, Hawaii County, HI.
Chairman Don Bennetts, Gogebic County, MI.
Commissioner Larry Sufredin, Cook County, IL.
Commissioner Donna Massey, Pulaski County, AR.
Commissioner Doug Coward, St. Lucie County, FL.
Supervisor John Woolley, Humboldt County, CA.
Commissioner Ron Stewart, Boulder County, CO.
Commissioner Bill Carey, Missoula County, MT.
Supervisor Barbara Green, Nevada County, CA.
Council Member Dan McShane, Whatcom County, WA.
Supervisor Janet K. Beautz, Santa Cruz County, CA.

RELIGIOUS ORGANIZATIONS

Religious Campaign for Forest Conservation.
United Church of Christ, Network for Environmental & Economic Responsibility.
World Stewardship Institute.

REGIONAL AND LOCAL CONSERVATION ORGANIZATIONS

Advocates for the West, ID.
American Wildlands, MT.
Alaska Center for the Environment, AK.
Alliance for the Wild Rockies, MT.
Aspen Wilderness Workshop, CO.
Audubon Society of Corvallis, OR.
Audubon Minnesota, MN.
BARK, OR.
Brown Environmental Action Network, RI.
Buckeye Forest Council, OH.
Californians for Alternatives to Toxics, CA.
Californians for Western Wilderness, CA.
California Wilderness Coalition, CA.
Cascadia Fire Ecology Education Project, OR.
Center For Native Ecosystems, CO.
Central New Mexico Audubon Society, NM.
Central New Mexico Audubon Society, NM.
Citizens of Lee Environmental Action Network, VA.
Citizens For Better Forestry, CA.
Citizens for Public Resources, Inc., OR.
Clearwater Biodiversity Project, ID.
Coalition for Jobs and the Environment, VA.
Cold Mountain, Cold Rivers, MT.
Coast Range Association, OR.
Colorado Environmental Coalition.
Concerned Friends of Ferry County, WA
Cumberland Countians for Peace & Justice, TN.
Devil's Fork Trail Club, VA.
Dogwood Alliance, NC.
Drew Environmental Action League, NJ.
Duckdaotsu Media Service, CO.
EarthCare, IA.
EcoTours of Oregon Day Tours, OR.
EcoWatch.
Environment Council, RI.
Environmental Protection Information Center, CA.
Environmental Law Society, NM.
Family Farm Defenders, WI.
Fargo-Moorhead Audubon Society, ND.
Friends of Blackwater Canyon, WV.
Friends of Hope Valley, CA.
Friends of Living Oregon Waters (FLOW), OR.
Friends of the Bitterroot, MT.
Friends of Del Norte, CA.
Forests.org, Inc., WI.
Forest Guardians, NM.
Forest Issues Group, CA.
Forest Forever, CA.
Forestry Monitoring Project, CA.
Friends of the Boundary Waters Wilderness, MN.
Friends of the Clearwater, ID.
Gifford Pinchot Task Force, WA.
Greater Wyoming Valley Audubon Society, PA.
Greater Yellowstone Coalition, MT.
Headwaters, OR.
Heartwood, IL.

REGIONAL AND LOCAL CONSERVATION ORGANIZATIONS

Hells Canyon Preservation Council, OR.
Helping Expressions, CO.
High Country Citizens' Alliance, CO.
Hoosier Environmental Council, IN.
International Society for Preservation of Tropical Rainforests, CA.
Idaho Conservation League, ID.
Illinois Student Environmental Network, IL.
Indiana Forest Alliance, IN.
International Primate Protection League.
Izaak Walton League, Breckenridge Chapter, MN.
John Wesley Powell Audubon Society, IL.
Keep Sespe Wild, OR.
Kentucky Heartwood, KY.
Kettle Range Conservation Group. WA.
Klamath Forest Alliance, CA.
Klamath Siskiyou Wildlands Center, OR.
Kootenai Environmental Alliance, ID.
Lake Superior Alliance, WI.
Lake Superior Greens, WI.
Last Refuge Campaign, MT.
Leavenworth Audubon Adopt-a-Forest, WA.
Living Earth: Gatherings for Deep Change, OR.
Lone Tree, MI.
Main Natural Resources Council, ME.
Magic, CA.
Mattole Salmon Group, CA.
McKenzie Guardians, OR.
Minnesota Center for Environmental Advocacy, MN.
Minnesota River Valley Audubon Chapter, MN.
Missouri Forest Alliance, MO.
Mount Shasta Bioregional Ecology Center, CA.
Mountain Defense League, CA.
Native Forest Network, MT.
New Mexico Audubon Council, NM.
New Mexico Wilderness Alliance, NM.

Northcoast Environmental Center, CA.
Northeastern Minnesotans for Wilderness, MN.
Northwest Ecosystem Alliance, WA.
Northwoods Wilderness Recovery, MI.
Obed Watershed Association, TN.
Okanogan Highlands Alliance, WA.
Oregon Natural Resources Council, OR.
Oregon Wildlife Federation, OR.
Quachita Watch League, AR.
Pacific Environment, CA.
Palos Verdes/South Bay Audubon Society, CA.
Prescott National Forest Friends, AZ.
PA Wildlands Recovery Project, PA.
Patrick Environmental Awareness Group, VA.
Rainier Audubon Society, WA.
Regional Assn. of Concerned Environmentalists, IL.
REP America, IL.
RESTORE: The North Woods, MA.

REGIONAL AND LOCAL CONSERVATION ORGANIZATIONS.

SAFE: Save Our Ancient Forest Ecology, CA.
Safe Alternatives for our Forest Environment, CA.
Save our Forest Environment (SAFE), CA.
Salem Audubon Society, OR.
San Bruno Mountain Watch, CA.
San Luis Valley Ecosystem Council, CO.
Selkirk Conservation Alliance, ID.
Serpentine Art and Nature Commons, Inc., NY.
Sinapu, CO.
Sitka Conservation Society, AK.
Siskiyou Regional Education Project, OR.
Sisters Forest Planning Committee, OR.
Sequoia ForestKeeper, CA.
Sky Island Alliance, AZ.
Soda Mountain Wilderness Council, OR.
South Fork Mountain Defense, CA.
Southern Appalachian Biodiversity Project, NC.
Southern Appalachian Forest Coalition.
Southern Environmental Law Center.
Southern Rockies Ecosystem Project, CO.
Southwest Forest Alliance.
Southwestern New Mexico Audubon Society, NM.
St. Louis Audubon Society, MO.
State Forest Organizing Initiative, OR.
Student Environmental Action Coalition-ISU, IL.
Southern Appalachian Forest Coalition, NC.
Students for Environmental Awareness, NJ.
Sun Mountain, CA.
Superior Wilderness Action Network, MN.
Sustainable Forestry Project, OR.
Taking Responsibility for the Earth and Environment, VA.
T & E, Inc., AZ.
The Clinch Coalition, VA.
The Forest Trust, NM.
The Lands Council, WA.
The Olympic Forest Coalition, WA.
Town Hall Coalition, CA.
Umpqua Watersheds, Inc., OR.
Virginia Forest Watch, VA.
Voices for the Forest, OH.
West Virginia Highlands Conservancy, WV.
Western Colorado Congress, CO.
Western Montana Mycological Assn., MT.
Western North Carolina Alliance, NC.
Wild Alabama, AL.
Wild Virginia, VA.
WildLaw, AL.
Wildlands Center for Preventing Roads, MT.
Wild Wilderness, OR.
Wilderness Study Group, CO.
Wisconsin Society for Ornithology, WI.
Whidbey Environmental Action Network, WA.
Yosemite Area Audubon, CA.

Mr. HARKIN. Madam President, I have a letter from the Forest Stewards Guild urging a vote against the Senate version of the bill, H.R. 1904. I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREST STEWARDS GUILD,
Santa Fe, NM, October 20, 2003.

Hon. SENATOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR: The Forest Stewards Guild, a national organization of over 500 foresters, urges you to vote against the Senate version of the Healthy Forests Restoration Act of 2003 (H.R. 1904). This is a momentous time for public forestry and we, as professionals, cannot stand by in silence. Despite the negotiation of a bipartisan compromise on H.R. 1904, the end result will set back the course of excellent forestry for years to come.

There is no doubt that the frequency and severity of wildfire has increased in the last 10 years. The catastrophic fires result, in part, from a century of narrowly prescribed forest practices applied to a wide variety of forest ecosystems. The composition, function and structure of most forests were simplified by past management, and today's forests are more susceptible to insect epidemics and vulnerable to catastrophic wildfire. The situation calls for action that addresses the root causes, not the symptoms, and that prevents further simplification of forest ecosystems.

Members of the Forest Stewards Guild are experienced managers of over 6 million acres of public and private forests in places as diverse as the Pacific Coast, Southeast, Lake States and East. Public forest management in the United States has always benefited from the experience of foresters who work on private lands, starting with Gifford Pinchot as the first Forest Service Chief. By constricting opportunities for forest decisions to be appealed and narrowing the consideration of alternatives, H.R. 1904 will cut experienced private-sector foresters out of decision-making. the exclusion of these experienced voices will make it more difficult to achieve the high standards of forestry that should exemplify public forest management.

After deep consideration we find that the Healthy Forests Restoration Act does not address the key problems causing destructive wildfire. H.R. 1904 focuses on removing perceived barriers in administrative and judicial processes, yet offers no vision of public stewardship to restore fire-adapted forests. For example, H.R. 1904 paves the way for harvesting in old growth forests to avert the impacts of natural processes, such as ice storms and insect infestations, despite the important role of these processes in creating old growth structure. H.R. 1904 also falls short in establishing meaningful monitoring requirements to help managers assess the effectiveness of fuel reduction projects at moderating fire behavior. The policies in H.R. 1904 favor intensive harvesting in the short-term without addressing the long-term maintenance of healthy forests that will ensure control of new fuel accumulation.

The current structure of forest legislation, including the National Forest Management Act, was specifically designed to address the gridlock that crystallized in the 1960s over clearcutting and type conversion of public forests. Senator Hubert Humphrey championed a program of civic discourse and debate over forest management—policies that will be reversed by the Healthy Forests Restoration Act of 2003. Legislation that suppresses public debate will only make the gridlock stronger. We urge you to vote against the Senate compormise of H.R. 1904.

Mr. HARKIN. Madam President, I have a letter from the League of Conservation Voters urging opposition to H.R. 1904. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEAGUE OF CONSERVATION VOTERS,
October 15, 2003,

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The League of Conservation Voters (LCV) is the political voice of the national environmental community. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of Members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide, and the press.

LCV urges you to oppose H.R. 1904, the Bush Administration's Healthy Forests initiative, when it comes to the Senate floor. Although the Senate bill differs in some respects from the bill that passed the House earlier this year, it still fails to require agencies to prioritize protection of homes and communities. The bill would also interfere with our independent judiciary, weaken the National Environmental Policy Act (NEPA), and undermine the public's legal rights to meaningfully participate in decisions affecting our public lands.

The Senate bill fails to ensure any increased protections for homes at risk of wildfire or funding for work on local, state or tribal lands to use home protection methods proven by the Forest Service Fire Research Lab. Furthermore, the bill is not consistent with the Western Governors Association's Ten-Year Strategy for reducing wildland fire risks. Communities need and deserve real protection, which requires fuel reduction focused close to homes and communities.

The Senate bill would weaken the NEPA requirement that agencies consider a full range of alternatives to agency proposals with environmental impacts, such as logging and road building, and would effectively nullify the alternatives requirement, which the courts have called the very ''heart of NEPA.'' In addition, the bill would eliminate environmental review for a category of logging projects up to 1,000 acres in size, excluding all public review, comment and participation for these projects.

The Senate bill would interfere with how judges manage their courtrooms by ordering courts to lift preliminary injunctions and stays after 60 days, unless the court affirmatively renews them. Moreover, the bill could provide agencies a new tool to restrict citizen access to the courts by requiring all legal issues to be raised during the administrative review process. Moreover, it would replace the current appeals process with a new process that does not allow appeals of final agency decisions, making it more difficult for Americans to challenge damaging projects and have a meaningful say in public land management.

Finally, although the Senate bill attempts to safeguard our old growth forests, the language offers an open invitation to abuse, and the bill fails to protect roadless areas.

For these reasons, we urge you to oppose H.R. 1904. LCV's Political Advisory Committee will consider including votes on these issues in compiling LCV's 2003 Scorecard. If you need more information, please call Betsy

Loyless or Mary Minette in my office at (202) 785–8683.

Sincerely,

DEB CALLAHAN,
President.

Mr. HARKIN. Madam President, I have another letter from the American Sportfishing Association, the American Fisheries Society, the Izaak Walton League of America, Orion: The Hunter's Institute, Trout Unlimited, Wildlife Forever, and the Wildlife Society. The letter is dated July 16, 2003. I will be clear to point out they did not say they were opposed to the bill, but they have serious concerns about some areas of the bill. I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICAN SPORTFISHING ASSOCIATION, THE AMERICAN FISHERIES SOCIETY, THE IZAAK WALTON LEAGUE OF AMERICA, ORION: THE HUNTER'S INSTITUTE, TROUT UNLIMITED, WILDLIFE FOREVER, THE WILDLIFE SOCIETY,

July 16, 2003.

Hon. PETE V. DOMENICI,
Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, DC
Hon. JEFF BINGAMAN,
Ranking Member, Energy and Natural Resources Committee, U.S. Senate, Washington, DC
Hon. THAD COCHRAN,
Chairman, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC
Hon. TOM HARKIN,
Ranking Member, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC

DEAR SENATORS DOMENICI, BINGAMAN, COCHRAN, AND HARKIN: We write to express our concerns regarding restoring healthy forests on public land (Healthy Forest Restoration Act of 2003, HR 1904). While we support the expeditious treatment of hazardous fuels on public land, the rush to implement an aggressive hazardous fuel management program may preclude considerations for other resources, particularly fish and wildlife habitat conservation. We believe that hazardous fuel management decisions should be based on deliberative and science-based protocols. By setting forth an open and collaborative process for such decisions, broader participation will be achieved and better decisions made.

Treatment of hazardous fuels where significant threats exist to human health or safety should be of paramount importance to the Forest Service. These treatments may include thinning, brush removal, or use of prescribed fire. It is important to note, however, that the Forest Service has only recently begun using timber harvest as a tool to reduce hazardous fuel. The paucity of research and evaluation as to treatment efficacy is a cause for concern. Congressional direction to focus on the wildland urban interface will enable us to keep our communities safer, while we learn through experience what types of hazardous fuels reduction projects work best, those that do not, and why.

Careful planning, analysis, and field-testing of various hazardous fuels treatments would allow the agencies to build support for hazardous fuels reduction, make communities safer and forests healthier, and provide a more stable and predictable supply of wood fiber from the National Forests.

Given that an estimated 75 percent of Forest Service timber sales currently are classified as hazardous fuels reduction projects, we would hope that Congress keep the public and environmental analyses processes for these sales as open as possible to ensure that interested citizens, scientists, sportsmen, and state agencies have significant involvement in their planning and implementation.

We endorse the prohibition of constructing new permanent roads in conducting fuel management projects. It is equally important that Congress recognize the possible deleterious effects of temporary roads on fish, wildlife, and water resources, especially if they become permanent travel-ways for unauthorized or unregulated off-road vehicle travel.

We are concerned that under congressionally proposed and agency-offered fuel treatment authorities, private citizens, sportsmen, and biologists will no longer be provided a reasonable opportunity to comment on or appeal decisions concerning fuel management activities. The 10-Year Conservation Strategy for Reducing Wildland Fire Risks to Communities and the Environment, for example, prescribes vague public involvement procedures and requirements on the agencies at the state, regional and national levels.

Legislation should make clear the purpose of emergency hazardous fuels treatments is to enhance forest health through activities that reduce the risk of catastrophic fire, insect infestations and disease, invasive plants, enhance fish and wildlife habitat, and protect watersheds. We recommend that project proposals be developed through an interdisciplinary planning process. The sale of marketable forest and rangeland products should be allowed only when such sale is incidental to emergency treatments. Wood fiber derived from fuels treatments should be sold separately as a byproduct of the restoration activity.

Finally, we note that a recently released General Accounting Office (GAO) analysis found that three-fourths of the 762 Forest Service projects to diminish wildfire risk in the past two years proceeded without appeals, litigation, or other challenge. Hazardous fuels treatments, such as mechanical thinning or prescribed fire, proceeded on 3.8 million acres of National Forests. Projects that were appealed or challenged moved forward generally within the 90-day period prescribed by agency regulations.

The GAO analysis demonstrates what is most needed by federal fire legislation is funding and a clear assignation of agency priorities to protect human communities. We hope this is where you will focus your efforts as a first priority. Thank you for considering our views. If you have any questions, please contact Chris Wood of Trout Unlimited at (703) 284–9403. We are available to discuss our concerns and recommendations at your convenience.

Mr. HARKIN. Madam President, I have another letter from a number of individuals who basically represent firefighters, smokejumpers—12 individuals who have written urging opposition to H.R. 1904 which they say is misnamed the Healthy Forests Restoration Act and instead support S. 1453, the Forestry and Community Assistance Act. I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR MEMBER OF CONGRESS: As current and former wildland firefighters, we urge you to oppose H.R. 1904, the misnamed ''Healthy Forests Restoration Act,'' and instead, support S. 1453, the ''Forestry and Community Assistance Act'' as the best available legislative plan for the interconnected goals of improving the health, safety and working conditions of wildland firefighters, protecting communities, and restoring forests.

Protecting homes and structures is one of the most dangerous assignments for wildland firefighters. We are basically forced to make a stand between the often unstoppable force of wildfire burning under extreme conditions, and the immovable objects of homes and structures. Added to the dangers is the fact that the area adjacent to homes and communities often have the highest fire risks and fuel hazards. And yet we must still protect these homes.

In wildland areas, firefighters face a number of unacceptable safety risks and health hazards due to the legacy of past management, such as: 1) high hazardous fuel loads in logged and roaded areas from untreated or ineffectively treated logging slash; 2) flammable brush, moisture deprived vegetation, and invasive weeds that rapidly grow in the wake of logging and grazing; 3) densely-stocked young timber plantations that can cause wildfires to blow-up and burn severely even from low-intensity fires; 4) a maze of abandoned or neglected logging roads that pose hazardous driving conditions for firefighters, or provide access for human-caused wildfires.

These degraded forests health conditions resulting from past management activities on public lands are part and parcel of the degraded working conditions and elevated safety risks and health hazards affecting wildland firefighters. The interests of wildland firefighters in a safer, healthier working environment, the interests of homeowners and communities in protection from wildfires, and the interests of the public in the protection and restoration of forest ecosystems, can be one and the same. Unfortunately, H.R. 1904, is heading down the wrong path.

First, H.R. 1904 fails to target fuels treatments to the areas that need it most: the community protection zone and low-elevation dry forest types. The wildlands/urban interface zone has some of the highest fire risks and fuel hazards, yet is neglected by H.R. 1904 because the majority of rural communities are surrounded by private, State, or Tribal owned lands, not federal lands. Hazardous fuels treatments need to be prioritized and targeted in the front country community protection zone in dry forest ecosystems. Instead, H.R. 1904 would authorize logging projects in remote backcountry areas including roadless areas, high-elevation moist forests, and other areas where fires may be natural or beneficial for the ecosystem.

Second, H.R. 1904 fails to target treatments to the kinds of fuels that pose the highest hazards. Hazardous fuels treatments need to target the surface layers of dead needles and limbs, small-diameter understory trees and brush, densely-stocked young timber plantations, old untreated logging slash. These surface and ladder fuels pose the highest risk of ignition and rapid fire spread. Instead H.R. 1904 would authorize logging of commercially-valuable mature and old-growth overstory trees, which are naturally resistant to fires and help moderate fire behavior by shading the ground surface from the sun and wind. Some of the most hazardous sites for wildland firefighters are hot, dry, windy logged units full of slash.

Third, H.R. 1904 fails to allocate necessary funds to pay for hazardous fuels treatments. In general, hazardous fuel loads have little or no commercial value. It will require appropriated money from Congress to pay for treatment of these kinds of fuels. H.R. 1904

fails to allocate any funds for hazardous fuels treatments, essentially forcing forest managers to sell large-diameter trees in order to pay for reducing fuels.

Fourth, H.R. 1904 fails to foster agency-community collaboration and social consensus around fire and fuels management projects. The enormous task of protecting fire-prone communities and restoring fire-adapted ecosystems will require an unprecedented level of collaboration among land managers and the public they serve. It is a matter of common sense to begin this task where we have common ground: prioritize fuels treatments around communities. This way we can increase public and firefighter safety in suppressing unwanted wildfires, and increase the opportunities for safely implementing prescribed fires. Instead, H.R. 1904 is guaranteed to generate increased public controversy and conflict, as the voices of citizens in public land management decisions are diminished, and legal accountability is eroded or eliminated.

We don't want to have our ability to comment on or challenge projects taken away—firefighters are citizens, too! In fact, citizens who work as wildland firefighters have the most at stake when fuels projects are planned and implemented. We want to be a complete part of the projects that will reduce the fuel hazard around at-risk communities, from planning through implementation, monitoring, and protection.

We want our working conditions, health and safety improved, but not at the expense of degrading the forests that we are dedicated to protecting. We believe that it is only through genuine restoration of fire-adapted ecosystems that firefighter and public safety will be improved, but H.R. 1904 is about forest restoration in name only, and is a recipe for further ecosystem degradation and public conflict and controversy.

In contrast, S. 1453, expedites projects to be done around communities most at risk of wildfire, regardless of whether or not they are bordered by Federal lands, appropriates funding for hazardous fuels treatments and watershed restoration projects, protects old-growth and roadless areas and currently healthy forests from inappropriate logging, and protects existing environmental laws and full citizens rights to engage in decisions affecting our own public lands.

As wildland fire fighters, we believe the protection of forests, communities and our health and safety are interconnected. We support efforts to make the working environment for wildland firefighters safer. But this does not have to imperil the very forests we seek to protect. Nor should it imperil the democratic rights of citizens to participate in land management decisions. Most of all, Congress should not use the issue of firefighter safety as an excuse to sanction inappropriate or illegal logging projects to proceed under the guise of fuels reduction or forest restoration.

Sincerely,

Joseph Fox, 25 years wildland firefighting experience; positions: smokejumper, Interagency Hotshot (crewboss certified).

Patrick Withen, 24 years wildland firefighting experience; positions: smokejumper, Interagency Hotshot, helitack.

David Calahan, 23 years municipal firefighting experience; positions: engineer on wildland/urban interface zone fires.

Michael Beasley, 16 years wildland firefighting experience; positions: Interagency Hotshot, Fire Management Officer, Prescribed Fire Specialist.

Rich Fairbanks, 14 years wildland firefighting experience; positions: Interagency Hotshot (foreman and squad leader), Division Supervisor.

Erin Ely, 10 years wildland firefighting experience; positions: Interagency Hotshot (crewboss certified), 20-person Type II fire crew, fire salvage timber sale planner.

Timothy Ingalsbee, 8 years wildland firefighting experience; positions: helitack, engine, 20 person Type II fire crew (squad boss), Interagency Hotshot resource advisor.

Mei Lin Lantz, 5 years wildland firefighting experience; positions: Interagency Hotshot (squad boss), helirappeller, engine crew, fire/fuels management planner.

Ric Bailey, 3 years wildland firefighting experience; positions: helitack, engine crew (foreman).

Shawnti Johnson, 3 years wildland firefighting experience; positions: Interagency Hotshot.

Nalita Kendall Baumback, 2 years wildland firefighting experience; positions: initial attack engine crew.

Colby Whitenack, 2 years wildland firefighting experience; positions: Interagency Hotshot.

Mr. HARKIN. Lastly, the Forest Roads Working Group, which includes Wildlife Forever, Trout Unlimited, Wildlife Management Institute, Izaak Walton League of America, Outdoor Industry Association, the Wildlife Society, and International Paper, also wrote a letter dated October 28, 2003. It is not in total opposition, but it expresses their concerns about certain parts of the bill saying the ''fire legislation should endorse the prohibition of new roads into inventoried roadless areas.'' I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOREST ROADS WORKING GROUP,
October 28, 2003.

Hon. PETE V. DOMENICI,
Chairman, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.
Hon. JEFF BINGAMAN,
Ranking Member, Energy and Natural Resources Committee, U.S. Senate, Washington, DC.
Hon. THAD COCHRAN,
Chairman, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC.
Hon. TOM HARKIN,
Ranking Member, Agriculture, Nutrition and Forestry Committee, U.S. Senate, Washington, DC.

DEAR SENATORS DOMENICI, BINGAMAN, COCHRAN, and HARKIN: We write to express our concerns regarding restoring healthy forests on public land (Healthy Forest Restoration Act of 2003, H.R. 1904). The Forest Roads Working Group was established to bring together a wide range of organizations with a strong interest in ensuring that roadless area protections are crafted and implemented in a workable and effective manner.

The FRWG supports the expeditious treatment of hazardous fuels on public lands. The need to implement an aggressive hazardous fuel management program should not, however, preclude considerations for other resources, particularly fish and wildlife habitat conservation, outdoor recreation opportunities, and the protection of inventoried roadless areas.

In light of scarce resources, treatment of hazardous fuels should be of paramount importance to the Forest Service where significant threats exist to human health or safety and adjacent private lands. Given that an estimated 75 percent of Forest Service timber sales currently are classified as hazardous fuels reduction projects, we hope that Congress will keep the public and environmental analyses processes for these sales as open as possible to ensure that interested citizens, scientists, sportsmen, recreationists and state agencies have significant involvement in their planning and implementation.

Fire legislation should endorse the prohibition of new roads into inventoried roadless areas. Given the now $10 billion maintenance and reconstruction backlog of existing Forest Service roads, it is important that Congress recognize the potentially deleterious effects of roads on fish, wildlife, and water resources, especially if they become travelways for unauthorized or unregulated off-road vehicle travel.

Thank you for considering our views. If you have any questions, please do not hesitate to contact me at 202/508–3400. We are available to discuss our concerns and recommendations at your convenience.

Sincerely,

J.T. BANKS
(For James D. Range).

Mr. HARKIN. Madam President, these are the concerns that I and many others have with the legislation before us, and I hope those who have amendments will come to the floor and offer them. I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Idaho.

Mr. CRAIG. Mr. President, before the ranking member of the Agriculture Committee sits down, I would be more than happy to include the protection of all the old growth in the Federal forests of Iowa in this bill, if it existed. Or maybe we could put a prohibition against wildfires in Iowa on public lands in this bill. And that is something we could accomplish because those two issues—the old growth, which I am sure the State of Iowa wished it had, and wildfires, which I know they would not want—do not exist in Iowa because no Federal forest lands exist there.

In my State of Idaho, in the great State of Oregon, and in the Great Basin, West, as much as 60 and 70 percent of our lands within our State borders are public lands and are subject to this legislation. That is why I am on the Senate floor. That is why my colleague from Missouri is on the Senate floor. That is why my colleague from California is on the Senate floor because it is the heart and soul of our States. Be it our water quality or our wildlife habitat or our environment in general, our forested lands make up that dynamic symphony of lands of which our States are proud, and we want to protect them.

To suggest this bill does not is not a fact. Let me give a point the Senator from Iowa just made. He said you could log in 1,000-acre increments across the landscape. Not true. Nowhere in the bill does it exist. Let's go back to California today where fires are burning.

Let's go to Lake Arrowhead in the San Bernardino forest where there is a complex of dead and dying trees of about 400,000 acres. You could log 1,000 acres there, and then if you chose to do another 1,000 acres near it, you get into the cumulative effect beyond the categorical exclusion and you have to do a NEPA process. That is what this legislation says. That is what the Senator

from Iowa did not suggest. He cannot suggest something that does not exist. Yes, it is true you do 1,000-acre logging increments, but when you get to a cumulative effect beyond the categorical exclusion, NEPA takes over. Therefore, you do the full public process that he admires and I admire because we believe the public ought to have a right to participate, but not ad nauseam through lawsuit after lawsuit for the purpose of delaying activity on the ground when there is bug kill and fuel loading and the public is at risk and the resources are at risk. That is what this debate must be about.

He implied that you could road on forever because this bill does not prohibit roading. You can't road today unless you go through a full NEPA process. It is not to suggest if you prohibit roading here or you do not prohibit it, therefore, roading will exist. That is not true. It does not exist today in current law. So do not imply that it does. That is a false accusation, in my opinion.

There are a good many other areas we will debate at length, I am sure, as the amendments come up. I am going to step out of my State of Idaho, which I know best, and step into California for a moment because California is at issue and it is in play.

My colleague from Oregon, who his other colleague from Oregon said was brave in taking the stand he is taking, is a brave soul, but he is also a person who recognizes the balance of good management on our public lands that protects water quality and wildlife habitat. He is the one who argued staunchly that we protect old growth. I didn't think it was necessary, but I agreed with him.

He and I have worked together very closely on what we believe to be balanced public forest policies for a good number of years, but what is not in balance is a policy that allows forests to burn at will simply because we deny the right of limited management to reduce fuel loading, to stop bug kill, and to slow the dead and dying trees.

So let us go to San Bernardino National Forest in southern California where fires are raging as we speak. We know that forest, because of environmental interests and because of the increase of the public living in that forest, in the 1970s stopped any form of logging. In the mid 1970s, it stopped. That became an inactively managed forest.

About 2 years ago, it was recognized as a forest that was in critical condition. The fuel loading was so great, the bug kill was so great, that the intermittent State lands within the San Bernardino forests were declared a state of emergency by the Governor of California, but it is almost impossible to save them if they are surrounded by lands where nothing is going on, where the bug kill is great, and where a fire is clearly a situation that creates a high risk.

We have known, and I have said on this floor for over 2 years, that the San Bernardino National Forest was the perfect firestorm waiting to happen, and yet we talked on and on in a formally inactive way not to do anything about it. It is now burning. That is a phenomenal tragedy that we could have done at least something about, but we chose inactive management on the San Bernardino nearly three decades ago.

Let me speak for a few moments about why and what is different in California today than 50 years ago. If one listens today to news commentators covering the fires in California, they will say that that area burned about 50 years ago, and it probably did. It is a Mediterranean-type climate. It is largely a scrub oak climate except when one gets up in the San Bernardinos where one begins to get conifers and it did probably burn. Maybe it has burned every 50 or 60 years for the last thousands of years, but what was different today than 50 years ago is that there are now people living in the canyons, in the valleys, and in the suburbs that did not exist 50 years ago in that area. So the landscape is dramatically different and the risk is substantially higher, but we have done little about it.

We have not insisted that there be firebreaks, that there be thinning, that there be a way to protect the urban/wildland interface. H.R. 1904 begins to address that, at least on the Federal forested lands. If those firebreaks had been present, if that scrub oak had been pulled back 100 or 200 yards from those homes, grass had been planted, foliage had been kept down, it would not have been 1,500 homes burned now; it would have been considerably fewer. We all know that. That is a fact.

The world of the forest has changed dramatically in the last 50 years. The Senator from Iowa is right. Wherever there was a piece of private property within a Federal forested area, a home was built. Why? Because it is a very desirable place to live. We all love to live within the forested landscapes of our country, but if we do not treat them properly, it is like living inside a kindling box. It is like living near a fire that is ready to burn. All one has to do is drop a match, because the fuel loading that has gone on in these forested landscapes over the last 30 years is dramatic. Why? Because we put fire out. We got awfully good at eliminating fire and we did not replace the natural ecosystem's activities of fire with manmade activity. It is quite simple.

Along came the environmental movement in the 1960s. Along came the National Environmental Policy Act and the National Forest Act in the mid-1970s, and we began progressively to slow our activities on the public lands that were offsetting nature's activities in some instances and the fuel load began to build.

In the mid 1980s, a group of forest scientists from all over the United States met in Sun Valley, ID, to explore the health of our national forests. They concluded that our forests in the Great Basin West were sick, dead, and dying, and that if we did not develop some form of activity to emulate fire, to thin and clean, we would someday in the near future begin to experience dramatic wildfires that would change the character of the landscape of the West. They were right. We did not listen. We could not listen. Why? Because there was a louder voice out there saying: Do nothing, do nothing, stay away; the only way to treat the public lands is to withdraw man from the lands, unless he or she tramples lightly upon them.

We did just that, and all of our policies have driven us in that direction. During the Clinton years, we reduced logging on public lands by nearly 80 percent. We did not change any laws, just reused the regulations, headed in another direction with a different philosophy.

Aside from that, there is another interesting statistic. Instead of the average of 1½ million to 2 million acres a year in wildfires on our forested public land, we began to see 3, then 3½, then 4, then 5, then 6, and last year 7 million acres, and that graph is going straight up as more of these lands burn because the fuel load that builds on them is so great that all of our forested public lands have become like a kindling box, ready to burn with the touch of a match.

It started in California last Saturday. It could have been manmade in this instance—it probably was—and, of course, we know the end result. It is not over yet. It has destroyed millions of acres of property and human life.

Now, this is dramatic. Guess what is about to start in California. The Senator from California is in the Chamber and she can tell us better than anybody else. But when the Santa Ana winds quit, when those great air patterns that sweep down out of the West shift and change the cycling of the wind and it reverses the sweep down off the mountains, it starts coming in off the ocean, and rains begin. This 500,000 acres of now denuded land, with no vegetation on it, will be subject to the winter rains.

What we are going to be hearing, almost as dramatic as the fires were, will be the mud slides and the erosion and the land movements that are going to occur in California simply within the next month or two or three. Can we not understand that? Cannot environmental organizations understand that there has to be a little bit of a balance, that somehow there is a way to ebb and flow, for us to exist, to protect our environment and at the same time balance it in a way that does not in the end destroy it?

In the year 2000, in Idaho, we lost 1 million acres to wildfire. That winter and the next spring, great slides of mud, rock, and debris flowed down out of the canyons and some of them into the beautiful pristine Salmon River that is a great fish habitat, a great

salmon habitat. In some instances, it probably damaged it. In one instance, there was a great alluvial flow of debris out into the river that was not swept away, and this last year when the waters hit it, the water diverted across the river and knocked out a highway and knocked out a road and put more silt into the river, all a product of the fire of the year 2000.

So fires have lots of consequences. We ought to try to manage our forests in a way that somehow diminishes the overall ability of those forests to burn, to protect our wildlife habitat, our water quality, our scenic beauty, and our recreational opportunities. That, in part, is what this bill is about. This is no major dramatic step forward. This is no assault on the environment. This is a positive but relatively small step in the areas we have so designated to suggest we adjust the appeals process ever so slightly, that we adjust the NEPA process ever so slightly, that we establish funding priorities in the wildland/urban interface, that we recognize and protect old-growth, and that we create a judicial review process that is streamlined so those who would chose no action cannot lock up reasonable, responsible action in the courts of our country.

That is what H.R. 1904 is all about. My colleague from Oregon is still on the floor. He, I, and a good many others, my colleague from Idaho, MIKE CRAPO, who chairs the forestry subcommittee in Agriculture—I chair the subcommittee in Energy and Natural Resources, the Senator from Oregon is the ranking member of that forestry subcommittee—have spent years and years on this issue, try to find a balance, working with environmental groups—outreach.

Let me thank the Senator from California, who is on the floor, who has demonstrated phenomenal leadership in this area. She has taken the time to understand the ecosystems and the health of the Sierras and she knows some form of limited action has to occur to save this beautiful landscape. That is what this legislation is all about. Yet some would paint it as dramatic and sweeping and destructive. It is simply not that at all. It is a small step forward in our effort to bring reasonable balance and management only in those areas designated as fire prone, as loaded with fuel, and the urban/wildland interface dominantly, and in sick and dying areas where the bugs have ravaged it and it is simply standing there dead, waiting for Mother Nature to take her course.

That is what H.R. 1904 is all about. Don't let anyone paint this in any other dramatic fashion or form, for if they were to do so, it would simply be untrue.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Idaho for his comments and for his support. I have worked with him on this issue now for a long, long time.

As you know, California has great and challenging forests. As I delved into the issue and became more and more involved and traveled over forests on helicopters and walked through forests, I realized how much they had changed from the time I was a child in California.

I also thank the bipartisan group of Senators who have tirelessly negotiated this legislation, particularly the Senator from Oregon, RON WYDEN. He and I, on our side, have worked with a group of Republicans, knowing that both of us face States that are deeply challenged by forest fire. The need to develop a piece of legislation was crystal clear to both of us.

This is very difficult, I think, for both of us because the prevailing environmental view has always been not to touch our forests, and that is what fire suppression was all about. Senator WYDEN has been stalwart. It has been a great pleasure for me to work with him and his staff. I know my staff has also very much appreciated the collegiality and also the exchange of ideas. I thank him very much.

Also, Senators BAUCUS, CRAIG, CRAPO, COCHRAN, DOMENICI, KYL, LINCOLN, and MCCAIN—we were all partners in forging this compromise consensus bill.

With what is happening in California, I don't think I need to tell anybody that there has been an alarming increase in catastrophic wildfires that have raged through our forests and neighboring communities all across this great land, because nearly 27 million acres have burned nationally in the past 5 years alone, and 2.1 million of those acres are in California. There are 57 million acres of Federal land at the highest risk of catastrophic fire, including 8.5 million in my State alone.

People in California don't realize that much of our forest is in what is called the highest risk of catastrophic fire—for many, many different reasons. But that is where they are today. This is far from the natural condition of our forests. It is because this century-old policy of suppressing ground fires has allowed so much flammable brush to accumulate so dangerously in many of our forests, especially in dry areas at low to moderate elevations.

This legislation is not a logging bill, as some would typify it—I think falsely. This legislation would allow the brush to be cleaned out and it would also provide the first statutory protection for old-growth stands and large trees ever in the history of this Nation. I have heard people fault it, saying it is not this and it is not that—but it is, and no one has submitted legislation prior to our doing so in this particular area.

I want to be very clear. This is proenvironment legislation and it seeks to reverse some of the damage we have done to our forests and restore their healthy condition.

Pictures show the story, I think more powerfully than words. Like the old adage, a photo is worth a thousand words. That is really true. Let me show you this first picture. This picture goes back to 1909, and it reminds me a little bit of the conditions of the Sierras when I used to ride through them as a child. You didn't have to go on trails; you used to ride through the forest.

This is a picture of Grandview Point at Grand Canyon National Park in Arizona in 1909. You see the buggy and horses, and you see the open nature of the forest. You don't see much ground fuel. You don't see brush.

Let me show you the next photo. It shows the forest closing in, due to fire suppression. From 1909, in the top picture, you will see it open. This is all the same identical forest. You will see the openness all throughout this forest as far back as you can see. Then you will see the next one, 1942. Look at these little juniors, look at them popping up all over the forest. Then you will see in the last picture in 1992, following a fire.

This is the problem increasingly with these forests. This picture is from the Pearson Natural Area in the Coconino National Forest in Arizona.

Now, look at another picture. This is the crowded, unthinned area, Ponderosa Pine in California. You will see one of these problems. This picture is not following a forest fire. This is the natural condition of this forest. It is just awaiting a catastrophic fire.

Now, let me show you where fire suppression doesn't just exist in pines. I would like to show you a photo of some of California's most magnificent trees. This is the Mariposa Grove of giant sequoias in the southern Sierra Mountains. It is interesting to look at it. This is a man right here. This will show you how big those giant sequoias are. This was taken in 1890. Look at the clear space around those sequoias.

Now go to 1970. This is the same tree and look at what has happened. This is a catastrophic fire waiting to happen.

What will happen if there were fire back here, let's say, involving these two trees? It would not necessarily be catastrophic, because it would not burn hot enough on the fuel to take out the canopy. The sequoias are basically fire resistant and it would resist it. Fires today run the risk—because of the underbrush, because of the nonnative species, and because of the fuel ladder—of really taking out the canopy of old majestic and great trees.

We had a fire in the Sequoias, and we were just lucky that where the fire took place, it didn't reach these trees.

I would like to show you a picture of a fire in a Ponderosa pine forest that has been altered by decades of fire suppression. Look how this fire is burning. It is not confined to the ground. It is rising up into the trees and doing substantial damage.

Look at this photo of fire in a stand where the brush and smaller trees have been cleared out. Note that the fire,

unlike this fire, is confined to the ground.

That is what we are trying to achieve in this bill so that when a fire does occur it is confined to the ground and does not do damage to old-growth trees, to other trees in the area, and to property and life.

Finally, this is a picture showing how thinning can protect the forests. This is the 2000 Clear Creek Fire in the State of Idaho. The upper area in the photo was unmanaged, and it burned severely. You can see that right through here where the fire burned. Now you can see where the fire stopped. The lower area survived the fire and remained green and healthy because of one reason: It had been thinned.

This is elegant testimony to what happens when it isn't managed. Where fuel is not removed, it burns fiercely. It stops where it is managed and there are fuel breaks, and the forest is cleared of fuel.

I want to emphasize that not all of our forests have been affected by fire suppression. Many of our forests—particularly those in the wetter areas and higher mountain elevations—have changed little, if at all, from fire suppression. Fires in these forests occur only rarely. In some cases, hundreds of years can pass between fires. But fire suppression has changed these forests little.

We can largely leave them alone under the legislation. The only exception is forest areas near communities where we want to reduce the hazardous fuel to ensure public safety.

This is how our amendment would work. The bipartisan amendment directly addresses these threats to our forest health and our communities.

We established an expedited hazardous fuels reduction program for 20 million acres at the highest risk of catastrophic fire.

Some opponents of this bill are saying everything is up for this project—wrong.

This project is confined to 20 million acres of the highest risk of catastrophic fire among the 54 million acres which the Forest Service has identified at highest risk of catastrophic fire.

It would authorize $760 million annually for the removal of fuel. That is a $340 million increase over current funding.

The House bill has no money for title I to do this in that bill. It leaves 50 percent of the funds to be used for fuel reduction near communities.

This is a compromise that Senator WYDEN and I made to be able to provide incentives for others who may not have as many populated areas as some of us do to also have an opportunity to have fires thinned near urban watersheds, municipal watersheds, areas of infestation, and other critical areas that are in need of thinning to prevent catastrophic fire. And the remainder of funding is for municipal watersheds or endangered species habitat or areas that have suffered just as I have said.

The legislation also requires that large fire-resistant old-growth trees be protected from logging immediately. Most people do not know that. But there is immediate protection for large fire-resistant old-growth trees. It mandates that forest plans that are more than 10 years old and most in need of updating must be updated with old growth protection consistent with the national standard within 2 to 3 years. Within that 20 million acres there is a real effort to say that old forest plans must be brought to the fore and dealt with quickly within 2 or 3 years.

While forest-specific old growth is being developed, large and fire-resilient trees would be immediately protected in the new project authorized by this legislation.

The bill prevents logging of the largest most fire-resistant trees in the guise of fuel reduction. Where old-growth forests have not been altered by fire suppression, existing old-growth conditions must be maintained. And in other old-growth stands where brush and other highly flammable fuels have accumulated through this century-old policy of suppressing ground fires, brush will be cleared out to protect the stands from catastrophic fire.

And local forest managers will write specific prescriptions for their forests. All of these prescriptions will be consistent with the more general national old-growth protection standards in the bill.

Additionally, the agreement improves and shortens the administrative review process.

I want to talk about this. There has been a lot of things said. A lot of things were just plain wrong. We have been trying to correct them wherever we can. Where we tried to shorten the process, we tried to make it more collaborative and less confrontational.

It is critical that the Forest Service be able to spend scarce dollars as it is doing vital work on the ground rather than being mired in endless paperwork.

The legislation we have submitted fully preserves multiple opportunities for meaningful public involvement. People can attend a public meeting on every single project. They can submit comments during both the preparation of the environmental impact statement and during the administrative review process. I guarantee that the public will have a meaningful say in these projects.

The legislation changes the environmental review process in this way. It does this so that the Forest Service still considers the effect of the proposed project. But it does it in a way so that the Forest Service can focus its analysis on the project proposal.

One reasonable alternative is required—I want to explain this—that meets the project goals and the alternative of not doing the project, instead of the five to nine alternatives now required.

We are not talking about a freeway or a highway being located where you might want to look at five to nine different alternatives. We are talking about one specific project that has been designated for hazardous fuels reduction and how you carry out that hazardous fuel reduction.

There might be debate on whether it should be mechanical thinning, or burning, or a combination of the two. There might be a debate on exactly which trees people want to remain inviolate. All of that is possible. But the requirement, in addition to the alternative of doing nothing, is reduce one alternative—one sound alternative—that can be considered.

This legislation replaces the current Forest Service administrative appeal with an administration review process that will occur after the Forest Service finishes its environmental review of the project but before it reaches its decision.

This new approach is similar to the process adopted by the Clinton administration in 2000 for review of forest lands and amendments to those plans. The process will be speedier and less confrontational than the current administrative appeal process and have more information available to those who want to know more about the project.

Perhaps the most controversial area is the area of judicial review. I will turn to that. I emphasize that cases will be heard more quickly under the legislation, abuses of the process will be checked, but nothing alters the citizen's opportunity for a fair and thorough court review. Parties can sue in Federal court only on issues raised in the environmental review process. We believe this is a commonsense provision that allows agencies the opportunity to correct their own mistakes before everything gets litigated. Lawsuits must be filed in the same jurisdiction as the proposed project. This was in-house language. This has been supported. It is a good idea. We go to the Federal court in the area where the hazardous fuels project is proposed, not to a Federal court in New York City or somewhere else.

Courts are encouraged to resolve the case as soon as possible. This is not mandatory language, it is suggested language. It means that any judge reading the bill will understand how seriously we take this. We urge them to conclude their deliberations expeditiously.

A preliminary injunction would be limited to 60 days, not going on and on and on. An individual who gets a preliminary injunction can come back before the court and make an argument as to why the injunction should be continued, and the judge has the ability and the prerogative to continue that injunction if he or she sees fit.

This provision, we believe, sends a signal to the courts not to delay important brush-clearing projects indefinitely unless there is a good reason to do so.

Then there is what is called balance-of-harm language in the bill that says the court must weigh the environmental benefit of doing a given project against its environmental risk as it reviews the case.

I deeply believe this amendment is balanced, that it is a significant improvement from the House-passed bill. I cannot support the House-passed bill. Senator WYDEN cannot support the House-passed bill. The Democrats who are on this bill cannot support and will not support the House-passed bill. Ergo, in this Chamber, the House-passed bill will not have the 60 votes required to move it along.

There are many ways in which this amendment improves on the House-passed bill. I know Senator WYDEN went into that in great detail. I will mention three of them.

First, this bill is focused on the highest priority language where we need to undertake brush-clearing projects to restore forest health. As I said, it is limited to 20 million of the 54 million acres at highest risk of catastrophic fire. These lands include the wildland/urban interface as defined by the communities needing protection, lands where fires would significantly threaten municipal water supply, lands significantly harmed by insect, disease, or wind throw and endangered species habitat.

Second, we have protected both old-growth stands and large trees across the landscape. The projects expedited by this act, I believe, will truly restore forest health.

Finally, the Senate agreement removed a provision of the House-passed bill that could have threatened the fair and impartial judicial review of Forest Service actions. This provision would have tilted the playing field in forestry litigation by requiring a court to defer to the Federal agency's views in deciding whether to issue an injunction.

So for these three reasons alone, I believe our bipartisan amendment to title I significantly improves the bill which I otherwise could not support.

Now, many people have said this bill would not do anything in California. That is just not right. I will speak to that for a minute because we have terrible fires burning, 10 huge fires, 3 huge major fires: Every day, burning homes; every day, the victim of excess vegetation and hazardous fuel that has built up over many years and has not been removed.

The fires in southern California are burning in two basic vegetation types: chaparral and the pine forests in the San Bernardino Mountains. The exclusion to that is the fire burning up north, east of Redding. In both of these vegetation types, treatments of fuels will reduce the risk.

The first area where the southern California fires are burning is the pine forests of the San Bernardino Mountains. I want you to take a look at these forests and look at the homes in the middle of this forest: House, house, house, house, house, house, house, house, house, house, house, house.

Do you notice the yellow forest? That is all dead and dying and infested bark beetle forest. There are 44,000 homes located in the Big Bear/Arrowhead area where this fire is now on two sides, moving. Look at these homes. Look at the dead and dying trees. Does anyone believe they have a chance of surviving if this forest is not cleaned?

We have tried in appropriations bills to get more money—and we have been able to get some money in this year and last year for more removal of bark beetle-infected forests—but clearly this is an exact area of urban interface that is in catastrophic, highest risk of fire. No one could tell me that if a hazardous fuels mitigation project had been carried out around this area, these homes and tens of thousands like them would not have been saved in this fire.

Everyone, look at this. That is what this bill means. If you are going to vote against this bill, just know that. This is correct and elegant testimony. About 474,000 acres in this forest. The San Bernardino/San Jacinto, often both private and public lands, were experiencing severe tree loss ranging from 10 percent of all the trees in a given area to 100 percent. That has been known for quite some time. It has had years of drought. It has bark beetles. It has root disease. It has dwarf mistletoe. They have all reached epidemic proportions. The cost assessment by the County Assessor's Office of these homes and those surrounding them is $8 billion.

A century ago, this forest was fairly open, with mostly larger trees. Experts estimate there were likely 40 to 50 trees per acre back then. The difference today is staggering. The Forest Service estimates there are now 500 trees per acre in much of the San Bernardino mountains—40 trees before fire suppression; 500 trees today.

That is also eloquent testimony to what happens with the fuel ladders that are generated by the overcrowded forests. This is more than 10 times the density of trees that existed a century ago. It is startling, it is dramatic, and it is a huge difference. So this is what we have created with a century of ''do not cut a tree'' fire suppression: extremely dense, unhealthy forests.

The Senate agreement would get projects moving quickly to thin these forests and restore them to health. The San Bernardino Forest would be among the highest priority areas to receive hazardous fuel treatments under the legislation. All the insect-infested areas would fall within the priority areas for treatment.

With the expedited administrative review process, we could treat these acres more quickly. Environmental analysis would focus on the work that needs to be done, not multiple theoretical alternatives. We know we need to thin these forests. We do not need to study 6 or 12 different ways to do it.

The expedited administrative review process would also help us past the confrontational delays caused in the current appeals process, and the additional funding the bill authorizes would also help.

Finally, we have spoken to Republican colleagues who have agreed to add a $50 million authorization for emergency grants to States and localities for dealing with situations exactly like those in the San Bernardino Mountains today. So there is money to help communities do their wildfire plans to help them move to develop areas they believe need this thinning, and these grants help additionally.

Communities could clear evacuation routes from mountain areas, like the Lake Arrowhead region, to ensure that people have a chance to escape in the event of a catastrophic fire. One family trying to escape with two children in their car was burned to death because the car could not move faster than the fire.

Brush would be cleared around shelter-in-place locations like schools in case people do not have the opportunity to escape in time. Communities would obtain funding for evacuation drills and other advanced planning. I am very grateful the other side agreed to add this $50 million segment.

The Senate bill will also help prevent chaparral fires. Some have said: Oh, no, it won't. Here is Scripps Ranch. This is a large subdivision outside San Diego. You see the fire—miles of fire line approaching the ranch.

The legislation authorizes significantly more money for hazardous fuel reduction efforts. We authorize a total of $760 million. That is $340 million above current funding. Again, the House bill has no dollars for this kind of public land mitigation. Our bill does.

Moreover, there is an understanding that the bill's sponsors will work to continue to increase funding substantially. Let there be no misunderstanding on this point, these funds are available to be used in brush areas like chaparral as well as in forested areas.

Second, the legislation requires at least 50 percent of the funding goes to community protection. This is a significant improvement over current law which does not require any set amount of hazardous fuel reduction go for community protection.

Perhaps most importantly, the legislation calls for communities to plan their own defense through community wildlife protection plans. That is a problem. People who live in dry Southern California areas want the trees, want the bushes, want the fuels on the ground. Historically they have resisted putting together community fire protection plans. That is folly. They have to do it. In chaparral, it is important to get community support behind prescribed fires to clear out the brush. So far, as I said, many communities have been reluctant to support prescribed fires because of the perceived risks of these fires. But community wildfire

plans will give the community the ability to choose whether it wants the risks of prescribed fire—or some cutting or thinning—or the much greater risks of wildfire.

Community wildfire plans will play an important role in gaining popular support for a workable way to defend these dry communities.

Another key issue—I am just about through—in chaparral is reducing the risk of homes burning on private land. The community wildfire plans provided for in this bill will help in this area, too, because they are required to include recommendations to reduce homes igniting throughout the community.

We owe it to our communities to do the best we can to protect them from catastrophic fire. I wish—I truly do, from the bottom of my heart—the California wildfires would be quickly extinguished and controlled. We need to do everything we possibly can.

I might report the regional forester called this morning. We have been pushing the White House and the Defense Department to lend every piece of available equipment—C–130s, Sea Stallion helicopters with buckets, tankers—everything they have. For the first time, I got the report that they have everything they need now to fight these big fires. I am very grateful for that and express my gratitude.

Mr. WYDEN. Will the Senator yield?

Mrs. FEINSTEIN. I am happy to yield.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I will be very brief.

I have one question for the Senator from California, but first I want to thank her for the exceptional work she and her staff have done on this issue for over 4 years.

Mrs. FEINSTEIN. I thank the Senator.

Mr. WYDEN. I have chaired the subcommittee. I have been the ranking minority member. I do not think my knowledge on this subject compares to that of the knowledge of the Senator from California.

Mrs. FEINSTEIN. The Senator is very kind.

Mr. WYDEN. She has thrown herself into this, and we thank her for all her efforts. We all empathize with what your constituents are going through. The people of California, a year ago, helped my constituents. We are trying to help yours. We thank you for it.

Mrs. FEINSTEIN. May I just say, thank you for the help that has come from Oregon. It is a long way away. But we are very grateful. New Mexico is sending help. Nevada—the Senator from Nevada is on the floor—sent help. Arizona has sent help. We are very grateful for that.

Thank you.

Mr. WYDEN. I thank my colleague.

One very brief question. I have sensed from the beginning of the debate that probably the most contentious issue coming up is this question of making sure the public is still involved in the process, the whole question of what is called NEPA, the National Environmental Policy Act.

The Senator is so correct in saying we have made it clear that the Senate bill is not something we are going to allow to be unraveled. But I think one of the reasons for it is because the Senate bill differs very dramatically with what the other body is talking about with respect to keeping the public in the process.

The other body, in effect, takes the public out of the process by predetermining these NEPA alternatives. What we have said in our compromise would be to say the public can actually offer an alternative. The public has a right to go into this process, known as scoping, and actually come to the table and offer an alternative.

The Senator has made the point that not one current opportunity for public comment would be lost under this compromise.

I would be interested in the Senator's analysis of how the public stays involved, because I think this is probably the most contentious question we may be faced with as we try to wrap up this bill, hopefully today.

Mrs. FEINSTEIN. The Senator is correct, through the Chair, if I may. We have discussed this and both of us wanted to protect the collaborative process. We wanted to protect the ability of individuals to go to meetings, to state their issues, to have those issues considered.

The only change I see in this is twofold. The first is that they will have the environmental review to look at, which is important in understanding what you differ with in the environmental review and then being able to make the case.

Secondly, the number of alternatives is reduced from five to nine to one. There is a good reason for that. As I pointed out earlier, if we were talking about a network of highways or something like that, you may want five to nine alternatives to be considered. We are talking about an area which has been designated in the highest risk of catastrophic fire. Therefore, the alternative would be one. For example, do you believe there is too much thinning? Do you believe there is too much burning? Would you do mechanical in what proportion to burning to thin this area out? There would be the ability to come in with one precise alternative.

Of course, the other alternative that some might argue for is to do nothing. They would have that ability as well.

Mr. WYDEN. I thank my colleague and again tell her how much I have appreciated a chance to be her partner.

Mrs. FEINSTEIN. You have been a great ranking member and I have enjoyed every minute.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield to Senator REID.

Mr. REID. Madam President, I have listened to the statements here today. They are all very good. People have worked hard on their statements. But I want to simply say this: We have a bill to complete, and we want everyone who has any interest in it to come and give their statements. When that time has come, we will start the amendment process.

We have worked on this bill now 3 hours, and the only amendment offered is the one by the chairman of the committee, Senator COCHRAN. What I wanted to do is ask unanimous consent—he already has the floor, the chairman of the Energy and Natural Resources Committee—that following the statement of Senator DOMENICI, the ranking member of the committee, Senator BINGAMAN, would be recognized to give a statement. It is my understanding the Senator from Alaska wishes to give a statement. Following Senator BINGAMAN, the Senator from Alaska be recognized to give a statement on the bill.

The PRESIDING OFFICER. Is the Senator seeking consent for that sequence?

Mr. REID. I am.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank the Senate for allowing a lengthy debate this morning about a very serious issue. I am looking across the Senate to the distinguished junior Senator from Alaska, a new Member of the Senate. She has behind her a very big picture. She will explain it in more detail. But might I ask, that is a picture of a totally infested forest in your State; correct?

Ms. MURKOWSKI. That is correct.

Mr. DOMENICI. Would you mind answering a couple of questions? We have been hearing about fires in California moving in the direction now, if they have not already, of an area that is highly infested.

Last night on television we heard various announcers talk about it. They described it from the field, for those who were there. They said: This forest is like Christmas trees many months after Christmas, just standing there like dried pieces of wood. And they said that we know what happens to those after Christmas when you put a match to them.

That is what we are talking about in this forest you have there.

Ms. MURKOWSKI. That is correct. It is not just a small patch we are talking about. We have over 5 million acres of infested and dead timber standing there just waiting, as the Senator indicated, to crumble and act as fuel for any fire. It is as the Senator described. It is like that Christmas tree. There is absolutely no life to it with the needles just crumbling in your hands. It is that dry.

Mr. DOMENICI. Before Senator FEINSTEIN leaves on her way out, I will not ask you anything; I am just going to speak about you.

First, I thank you for your leadership in this regard. Some people think that it is only New Mexico and Utah and Wyoming that have forest fire problems and that have forests that are clogged to the gills because we have not maintained and cleaned them. Some think the only infested forests are in Alaska.

As I understand it, you have all of those and probably in larger quantities than most of us combined. I say, for those of us who have been trying desperately to get a bill that treated these situations in a way that could be solved, it was truly a Godsend that we got some powerful and thinking Democrats who decided to join us. You are one of them.

Senator WYDEN, I thank you. There are more than the two of you. But every time we needed a voice, you were there. I don't know what they said about you at home. I don't know what those people who don't want to do anything said about you. But I assumed they didn't say all nice things because every time you try to modify the law, there is somebody back home who runs an ad that you are trying to log all the forests in the State or that you don't care about preserving the beauty of your State, that you have just turned yours over to the logging industry.

I see the Senator nodding. You must have had some of that already. And Senator WYDEN, you must have, although you have already felt the wrath of not being able to log anything in your State, and you have seen what happened to thousands of workers.

I just wanted to, as part of my opening remarks, thank you.

We will also have to take up, as part of the Iraq bill, the Domenici-Feinstein bill on proper notice and opening up all the decisions that are going to be made over there to the public and in a regular order manner. We will do that later in the day and maybe have another victory.

Mrs. FEINSTEIN. Through the Chair, if I may, I would like to thank you, Senator. I appreciate the chairmanship of this committee, your working with Senator WYDEN and I. I am delighted to hear what you have said about the emergency supplemental and getting the report language back in. Thank you very much.

Mr. DOMENICI. We have an array of Senators, not just Republicans—not the few who have been fighting for years about this issue of the failure to maintain our forests—we have a lot of Senators who have come around to our way of thinking, Democrat and Republican. It almost is unbelievable to see that forest in Alaska, which is no longer a forest other than by name, to see what is happening in California as brush fires move quickly toward an entire forest that is dried, dead trees, and then to ask the question: Why is that so? Wouldn't it be rational that we cut them down? Wouldn't it be rational that rather than leave them there as natural incendiaries, ready to literally blow up, just poof, and they go right up in the sky as these kind of trees burn, wouldn't it be logical to do something about it?

Well, the truth is, we have not been able to do anything about it for one of the most ridiculous reasons anybody could have in mind, but it has worked until today. That is, anything you try to do is logging forests. Anything you try to do is turning the forests over to the loggers. Would you believe year after year after year that has prevailed? I don't know what we could have done when we passed legislation, when we begged these same groups, let's write in something about logging, let's talk about the size of the trees, let's do anything reasonable, as we talked about what has happened to American forests.

I don't know if the distinguished occupant of the chair knows what forests looked like 20 years ago in our public forests, and what they look like today; but I can tell you they don't look like the same forests. They used to be cleaned: there used to be spacing; it used to be that the trees—I nicknamed what we were trying to do one time on the Senate floor—what we are trying to do is make the forests ''happy'' again. I meant that they could see the sun, and they would probably smile, instead of being clogged up together where they grow straight up. But nobody dare touch that forest and clean it up and make it a forest like it used to be because they will be sued and things will be delayed, a judge will take over, and the judge will say: Every ''t'' has not been crossed, every ''i'' has not been dotted. You cannot do it.

One day in 1998, after we had our share of fires, after a huge fire in my State—I think it was the second most serious fire to the California fires in terms of burning down homes—450 houses at Los Alamos. Incidentally, if you are looking at what things might cost, that was done by the Federal Government that messed up and burned it by mistake and we had to pay. That one cost over a half billion dollars to the town and the people for what they lost, including houses and streets that were broken and torn up. I would not even want to guess what the California fire will cost. I hope that the houses are insured.

Nonetheless, if you add it all up, it is costs. I don't see how it is going to be less than $5 billion or $6 billion, based on the little bit I know that I am sharing with you. The truth is that there is no reason under the Sun to delay moving ahead with that forest in Alaska, and moving ahead quickly, get it cut down; and whatever utility there is in the trees, use it. If there is none, have planned burns so you can give way to some growth that will be healthy again. That is why we have called this now the Healthy Forests Act.

Might I quickly say that while we weren't able to expedite everything the way some of us wanted, although everything is expedited in this bill, at least cleaning up forests such as the one in Alaska, huge acres of infested trees, in this bill that will move quickly in the future. It can be delayed and go to court once. But the overall thrust of the bill is that it won't be delayed for years as in the past. So the distinguished Senator from Alaska hopes to see some of that removed soon, during her first elected term in the Senate.

Now, I began by thanking Senator COCHRAN and his staff for moving ahead with this legislation. It was determined that it was their jurisdiction because of the way it was written, not the jurisdiction of my committee, the Energy and Natural Resources Committee. They did a great job. I am not going to bother the Senate with a lot of statistics about the health of our national forests, but there are some facts of importance.

Our Federal agencies tell us that 190 million acres are at risk to catastrophic fires or attack from insects and disease—190 million acres. This is an area equal to the size of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, and most of Maryland. It means that much land covered by forests is no longer real forest, it is insect-riddled forest like that in the photo of Alaska, most of which should be removed so good trees can grow, and so we can eliminate catastrophic fires that can occur quickly, simply, and easily and go through and scourge the area—worse than Attila the Hun—leaving nothing.

In the last 5 years, we have burned—including what we have burned this year—24 million acres; 24 million acres have been scorched. That is an area as large as Vermont, New Hampshire, and Connecticut. I am not here saying we will never have forest fires and we should never have them. What I am saying is they should not be occurring where improvements exist, homes exist, National Laboratories exist, where businesses exist because we already know we ought to clean around them so they will not burn.

As a matter of fact, the principal reason for the bill I introduced, which I said we called ''happy forests,'' was to get at this issue we called urban interface. We still have not done a great deal. In fact, I am just learning that of the $250 million that we put in that bill back then, there is still over $100 million in both the BLM and Forest Service that has not been spent on happy forests. So maybe when we get this bill finished, we can finally get an organized plan for funding that will see us making some headway. We have seen insects destroy the forests in a dozen Western States, severely impacting forests in Eastern States.

One such outbreak in southeastern California has destroyed 450,000 acres, half the national forest that it is located on, in an area almost as large as the State of Rhode Island.

Let me put the forest health disaster in context. During that same period,

the Forest Service has only thinned or harvested 1.4 million acres, which is slightly larger than Delaware. We have burned 17 times more rangeland in the last 5 years than we have attempted to manage—land that we know should be managed, cleaned up, unclogged, and we should get rid of the waste on the ground that is a fire trap. We have burned 17 times more than we have attempted to clean up and manage.

So this bill is going to improve forest health, if we can ever get it passed. I hope those who have delayed it in the Senate will let us get on with it. I have been amazed to hear the reason some have said—that they are holding this bill up because they could not understand it. Well, I don't know how all these Senators, from the ones I mentioned on the other side of the aisle to the ones on this side, could all say it is a meaningful bill, and then we can have one or two Senators, or their staffs, saying they are against it because they don't know what it means. Maybe they should ask or let us bring it up, and if they think it is not clear, offer an amendment.

I think it is clear, and I think it is a good bill. I don't think in some areas it goes far enough, but you have to do what you can. Now we have a great bipartisan coalition and we will have to work with the House, which wants to go more in the direction of expediting matters. But this is going to result in improving the health of our forests over time. It will result in a more public expedited process for moving hazardous fuels projects through the NEPA process. I didn't say ''without'' the NEPA process, as we are being accused of out in the hinterland. It is going to provide that that would be expedited. There is nothing in the NEPA law that says you cannot do that. It prioritizes the treatment of 20 million acres in the wildland/urban interface. I described that.

Twenty million acres are supposed to receive high-priority treatment to clean this stuff that is around urbaness, and make it less volatile from the standpoint of burning. When we had our Los Alamos fire, which I alluded to, it came perilously close to burning some very important laboratory buildings. Suffice it to say that most of them were saved because the laboratory had cleaned up 200 or 300 feet around each one and left no trees, so they had to jump all the way over that to get some buildings.

On the other hand, the fire got a few buildings that were not so important and where there had been no cleaning and burned them. We spent a lot of money replacing a few of the buildings.

This bill says 20 million of this wildland/urban interface, as well as outside the wildland/urban interface is at highest risk, and they are called that: high-risk areas.

This bill calls for court cases on hazardous fuels projects to be heard within the district in which they are located, encouraging the courts to deal with these cases in a timely manner, and directs that all preliminary injunctions be reviewed every 60 days, with an opportunity for the parties to update the judges on the conditions about which courts should know.

Finally, the bill reminds the courts that when weighing the equities, they should balance the impacts to the ecosystem of the short- and long-term effects of undertaking a project against the short- and long-term effects of not undertaking a project. That is very important. It cannot be one-sided. There is always somebody who can say there is a bad side to it, but the judges now will have to look at and balance the short- and long-term effects of not doing the project with undertaking the project. They are going to find that a lot more than in the past, it will not be subject to the court holding them up.

What is the difference in the House bill and this bill?

First, we have restricted the use of this authority under this act to only the highest risk areas.

We have emphasized the importance of working within the wildland urban interface by requiring 50 percent of the funds nationally be spent within the wildland urban interface.

We have emphasized the importance of quickly dealing with insect and disease epidemics and the salvage of windthrown or ice-damaged timber due to their suseptability to insects and disease.

We have increased the amount of upfront public input to project development and NEPA by adding a process for communities to develop a community fire protection plan to help inform the Federal land managers of a community's priorities and by requiring all projects to be developed through the collaborative process developed by the western Governors group.

We have added the authority for the agencies, in cooperation with State and local government, to treat community escape routes as part of the wildland urban interface. This is a major improvement over the House-passed bill.

Until the community fire protection plans are completed, we have laid out criteria for how far from the wildland urban interface the community protection projects may be undertaken. These criteria are flexible enough to take advantage of geographic features, such as ridge-tops, rivers, or roads, but restrictive enough to ensure projects undertaken in the wildland urban interface will really protect the community.

We clarified what Congress wants in terms of a new pre-decisional protest process by requiring the Secretary to establish such a process while ensuring the public will play a part in the development of the new appeals process.

Unlike the House version, we have limited the use of this new appeals process to just projects authorized by this act, rather than having it apply to all Forest Service activities.

We have, for the first time, included language designed to protect old growth and fire resistant large trees. This protection is based on forest plans.

Where those forest plans are old, or outdated, we require the Secretary to complete a plan revision or amendment to address old growth and large fire resilient trees, while at the same time including enough flexibility to ensure work need to improve fire resiliency can be carried out.

We have narrowed the scope of changes under judicial review to just those projects undertaken under the authority of this act.

We have also included all of the judicial review provisions from the Wyden-Feinstein proposal, S. 1352.

Finally, we have authorized $760 million annually for hazardous fuel reduction work, including the projects authorized under this act, which is more than double what is currently being requested.

I thank the Senate for listening. I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). Under the previous order, the Senator from New Mexico, Mr. BINGAMAN, is to be recognized at this time.

Mr. BINGAMAN. I thank the Chair.

Madam President, even if we were not having the catastrophic fires we are seeing every day in southern California right now, the forest health issue is of vital importance to us in the West, and many of the speeches that have been given here underscore that.

I am glad the Senate is considering a forest health bill with the opportunity for us to offer amendments. I will not go through all of my statement because I know we want to get to those amendments. There has been a lot of time used already in discussing the bill in general terms. We need to get down to some of the specific amendments.

Let me make a few general statements about the bill because I do think it is good to at least give our perspective on the situation.

Some have tried to portray the issue as one of support for the concept of active management of our national forests on the one hand as opposed to simply allowing nature to take its course. Let me be clear that I do not agree with that portrayal of the debate taking place in the Congress. I have always viewed active forest management as not only a desirable policy but one that is absolutely necessary. In my opinion, support for active and responsible forest management does not equate with support necessarily for all the provisions in this substitute amendment that will be coming before us.

I want to be sure that whatever legislative language we pass provides meaningful new authority to Federal land managers, that it is focused on the communities that are most threatened by wildfire, and that it does not unduly restrict the public's ability to participate in the oversight of public lands management.

In addition, I believe commercial timber operations are an important

part of our national forest policy. It is important that legislation dealing with forest health not be a pretext for accomplishing that purpose as well.

I wish to discuss some of the concerns with the forest health issue based on the initial reading I have done of the amendment we are going to be debating and amending.

Let me begin by stating the obvious. That is, the health of our Nation's forests is absolutely critical at this point due to generations of misguided forest management policies. Many forests are overcrowded with unhealthy buildup of underbrush and tree overcrowding. I think all the experts in this field recognize that. We see evidence of that not only with the California fires, but we see evidence of it throughout the country.

The effect of these large wildfires can be catastrophic, as we all can see. We have, as Senator DOMENICI indicated, seen some of this catastrophe in my home State of New Mexico. He made reference to the Cerro Grande fire at Los Alamos where a substantial number of homes were destroyed and a great amount of the forest was also destroyed.

Clearly, we need to take proactive steps to improve forest health. In my view, the proposed forest health amendment does some things right but, in some respects, I think it misses that opportunity. It does not provide any meaningful new authority for funding to help Federal land managers, but it does add new restrictions on the public's ability to participate and restrictions on the Federal courts' ability to review what is done.

There is a basic disagreement among some of us in Congress and among those who are most ardently supporting this amendment, and that is a disagreement about what is the most significant public policy issue we are faced with in trying to come to grips with these catastrophic fires.

The amendment we are going to be debating seems to be based on the premise that the underlying and essential problem that needs fixing is that we have too much public participation in the decisionmaking process, in management decisions, administrative appeals, and lawsuits.

One of the speakers earlier today talked about a litigation paralysis, saying that is the problem, that is why these forests are burning up. That is what we need to change most quickly. I say this because the major new authorities provided in the amendment are ones that limit appeals of agency decisions, limit judicial review, and require courts to follow new standards. I don't really think the facts support this assumption that litigation is the major and most significant problem we face.

I recently asked the General Accounting Office to study whether the National Environmental Policy Act compliance requirements, the agency appeals, and the litigation that has occurred were causing significant delays in hazardous fuel reduction projects.

The GAO issued a preliminary report in May. They just completed a final report last Friday. The GAO in that report reviewed 818 Forest Service management decisions over a 2-year period, fiscal years 2001 and 2002, and these 818 forest management decisions involving fuel reduction activities on 4.8 million acres of land. These were the first 2 years of the so-called national fire plan which we have all been trying to see implemented.

It is worthwhile to take just a minute to summarize what the GAO found. The GAO found that the vast majority of acres treated were categorically excluded by the Forest Service from NEPA review. That is a term of art, ''categorically excluded.'' That means this is authority in the law for the Forest Service to say: We are going to exclude certain areas from NEPA review, and we have the authority to do that.

The GAO found the vast majority of acres that were treated were, in fact, categorically excluded. None of these projects were appealed, none were litigated, none were subject to appeal, and none were subject to litigation.

Only 25 of the 818 were litigated. That represents about 3 percent of all projects. That involved about 100,000 acres. Again, this is out of the 4.8 million acres that was studied by the GAO for those 2 years.

Significantly, the GAO found of those 25 cases that were litigated, 23 involved commercial timber sales. Of the 25 cases that were litigated, the courts found the Forest Service lost on all but one of those cases. So to the extent litigation was involved, the vast majority of the time the Forest Service was found to have been in violation of the law.

In my opinion, litigation is not the major problem. I am not saying we cannot do some things to streamline the appeals process and to be sure any frivolous litigation is eliminated, but I do think we need to recognize the GAO made a study that shed some light on what we are doing.

The majority of forest-thinning projects were categorically excluded from NEPA. In my State, in region 3 of the Forest Service, which included Arizona and New Mexico, the GAO found 78 percent of the projects were excluded, and that covered 91 percent of the affected acreage. So 91 percent of the affected acreage was never subject to appeal, never subject to litigation.

This is a useful report. There is a one-page summary of it. I ask unanimous consent that it be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. The only other report we have analyzing empirical data of the Forest Service appeals involved a 2003 study by a political science professor at Northern Arizona University. Contrary to the assertions of the Bush administration, the Northern Arizona University study found the number of appeals had been decreasing since 1998.

I will speak a little bit about what I do see as a major issue as part of this legislation. Based on our experience with forest health issues in my State, the real issue has not been judicial appeals, judicial review, but instead has been providing adequate funding for forest health projects and stopping the Forest Service's harmful practice of borrowing funds from fire prevention accounts in order to pay for the cost of fighting forest fires. I will offer an amendment on that in a few minutes. I wanted to flag that as an essential problem I think needs to be dealt with. It is not dealt with in the amendment coming to the floor now, but I will give the Senate the opportunity to deal with it. I hope the Senate will agree with me this is something we need to fix.

I commend Senator BURNS and Senator DORGAN, the chairman and ranking member of the Interior Appropriations Subcommittee, for their efforts to secure $400 million last month to repay the accounts the agencies borrowed in order to fight fires. I also appreciate Senator BURNS's comment that the $400 million is not the final word, especially since the estimates those agencies have given is they actually had to borrow over $600 million from other programs so far this year.

However, the year-to-year approach we have followed of borrowing funds from other accounts in order to deal with forest fires is just not adequate. Even when our Senate Appropriations colleagues were able to obtain supplemental funding to repay these other Forest Service accounts, every year on-the-ground restoration work is substantially delayed while the Forest Service waits for a supplemental appropriations bill to be enacted into law.

In New Mexico, there are some very critical Forest Service fire prevention projects that were postponed for up to a year as a result of borrowing from these accounts. These include wildland/urban interface fuels projects in the Carson National Forest, the Gila National Forest, the Lincoln National Forest, and the Santa Fe National Forest.

In addition, a contract for construction of a fuel break around a community at risk in the Cibola National Forest was postponed for 6 months because of the agency borrowing to cover firefighting costs.

This is not criticism of the agency. The agency has no alternative but to do this borrowing, the way we have set it up. What happens is very simple. The President asks for too little money for firefighting. He does that every year—at least he has for the last several years. I have some charts I will show in a few minutes on that.

The President asks for too little money. We in the Congress agree with

the President and appropriate too little money. Then when the fires start happening, of course, the Forest Service has to find ways to fight those fires. The only option they have is to shut down their activities in other areas and use that money instead to fight fires.

One of the other areas they shut down activity in is in this forest-thinning work, so that we put it off, say, OK, we cannot get it done this year; we are too busy fighting fires; we will try to get it done next year. Then next year comes and once again they may have to use the money they had hoped to use for the forest-thinning activities and the forest health activities to, in fact, fight fires. That has happened year in and year out. It is a classic case of being so busy killing alligators that there is not time to drain the swamp. That is exactly the position we have put the Forest Service in and we need to try to correct that. I will offer an amendment with the hope the Senate will agree with me and make that correction.

The lack of funding for forest health projects continues to constrain our efforts to actively manage our forests to deal with these disease and drought conditions which have been discussed at length. Three years ago, Congress found funding was the main obstacle to improving forest health and reducing a threat of unnaturally intense catastrophic wildfire. Specifically, we have created the National Fire Plan, with $1.6 billion in new funding for existing programs, to improve forest health conditions. At that time, we all agreed on the need to sustain a commitment to the National Fire Plan over a long enough period so we could make a difference. We were talking about 15 years. That meant at a minimum sustaining the fiscal year 2001 funding levels for all components of the National Fire Plan.

Unfortunately, as I stated just a few minutes ago, the administration has systematically and continually proposed major cuts and, in some cases, zeroing out critical programs within that National Fire Plan, including the burned area restoration program, rehabilitation projects, economic action programs, community and private land fire assistance. So the proposed cuts we have received in the budgets each year have eliminated funding for these programs, notwithstanding the clearly identified demand for these programs. For example, New Mexico and other States have suffered unnaturally intense, catastrophic fires, and there is a desperate need for funds to restore and rehabilitate the burned areas.

Finally, the 2002 report and conclusion by the National Academy of Public Administration confirmed the main obstacle constraining the Forest Service from substantially increasing its proactive efforts to reduce fire risk is the lack of adequate funding. The proposed amendment to H.R. 1904 authorizes $760 million. I appreciate the fact that funding level is in there, but it does not ensure the real funding will be provided. The problem is, when we get into the actual appropriating of funds, we do not get the job done.

In earlier debates, I have repeatedly stated the Forest Service needs to focus its hazardous fuels reduction effort more directly on the threats communities face. We will have an amendment to that effect. I know Senator BOXER from California has an amendment to try to do a better job in that regard. I think that will be an important issue for us to try to deal with as well.

In sum, Congress required a sufficient proportion of all hazardous fuels reduction funds be spent on projects near communities. Nevertheless, the General Accounting Office recently found that more than two-thirds of the Forest Service decisions involving fuel reduction activities were targeted exclusively at lands outside this wildland/urban interface area. The amendment that has been brought to the floor here goes on to state that this requirement is based on a national average, this 50 percent requirement. They are saying we should have 50 percent going for projects near communities, in this wildland/urban interface. If you have a requirement such as that based on national average, obviously individual forests or even entire regions can significantly ignore this direction we were giving them.

In addition, the provisions of the amendment only apply to funds allocated for projects pursuant to title I of H.R. 1904 rather than to the entire hazardous fuels reduction program.

There are many questions about the specific language of the amendment at which we need to look. Let me talk for just a minute about the new administrative appeals process.

Apart from what the amendment does not do, I am very concerned with some of the things the new authority does try to do. The provision that seems the least developed in the amendment, the one that causes me significant concern, is section 105. This section directs the Secretary of Agriculture to establish a predecisional administrative review process that will serve as the:

sole means by which a person can seek administrative review of a hazardous fuel reduction project. . . .

This predecisional process is described as covering the period following the completion of the appropriate NEPA document up to the date a final agency decision is issued.

I understand the desire to ensure that interested members of the public are involved during the development of the proposed agency project, and to avoid lawsuits by those who have not been involved in the process, and I certainly agree with that.

However, I think the language is somewhat troubling. As I understand it, the language would limit the right to administratively appeal an agency decision, as well as the ability to challenge it in Federal court, to those who have exhausted the predecisional review process. So we are going to significantly limit the right to appeal or challenge a decision based on a process that has not been established yet and that we are not really clear on what it will permit.

There are other questions about that. As I understand it, there will likely be an amendment offered on that issue as well.

Let me say a word about the Federal courts because many of the others who have spoken have done that. The amendment that has been offered here limits the court's ability to issue a preliminary injunction to no more than 60 days, although a court can renew an injunction indefinitely.

In order to issue a preliminary injunction, a court needs to find several things: No. 1, that the plaintiff is likely to prevail on the merits. That is the first thing the court needs to find. No. 2, that there will be irreparable harm if the injunction is not issued. No. 3, the harm to the plaintiff in not issuing the injunction is not outweighed by the harm to the defendant of issuing the injunction. And, No. 4, that issuing the injunction is in the public interest.

So a Federal court has to find quite a few things to issue a preliminary injunction. Having made this determination, I wonder why we then are saying to the court, unless you come back and renew that injunction every 60 days, we in Congress are going to assume the agency was right and you were wrong. The court has already determined that most likely the agency is in error. So I have concerns about that.

I understand there is a great desire here to limit the Federal court's ability to issue injunctions, preliminary injunctions. My understanding is, also, that this not only limits preliminary injunctions, it limits the Federal court's rights to issue permanent injunctions in some questionable ways.

Let me say just briefly, I do think we need to be sure the bill has adequate protections for national monuments and for roadless areas. There are provisions to exclude designated wilderness and wilderness study areas from the bill. I think we should have that same provision apply to national monuments. I hope we can persuade our colleagues that that makes good sense. I have been told by some that is certainly their intent.

Turning to my home State, 3 years ago we created the Valles Caldera National Preserve in northern New Mexico. I think it would be good to know how the provisions in this amendment would be used there, in that type of arrangement. Perhaps we can clarify that. I hope we can.

There are several other questions about how this relates to other forest initiatives: How does it interact with recent legislative and administrative actions regarding forest health?

There is a stewardship contracting program that includes exemptions from

the National Forest Management Act and provides new authority for the Forest Service and for the BLM to trade the value of big trees removed by a contractor for restoration services completed by that same contractor. We need to see how this new legislation would impact upon that.

In addition, the administration has taken several regulatory actions recently under its Healthy Forests initiative. It has promulgated new rules establishing a categorical exclusion from NEPA, which would apply to projects, including timber sales, that cover up to 1,000 acres each. The administration has published new rules overhauling the Forest Service appeals process. Those new rules exempt all ''categorically excluded projects from appeal.''

In other words, the administration has taken significant action to deal with several of these issues. We need to know how this legislation affects the actions that have already been taken.

Slash treatments is another issue that I think deserves some attention. We have a serious issue here in that in my home State they go through, they cut down the diseased small trees, they put them into piles, and then they have to come back and do a sequential treatment, come back and remove that slash and be sure it does not become bug infested and become an even greater problem. The GAO analysis found that in my State the Forest Service and BLM completed only 19 of the 34 followup slash treatments that they had committed to do in a timely manner. Again, it is probably a lack of funding that has caused that shortfall.

I have some additional concerns and questions about the provisions in the amendment. I will raise those at the appropriate time as we get into the amendments.

In closing, let me reiterate I am very glad we are proceeding to consideration of the bill. Since some of us were not involved in the negotiations, I do think it is appropriate we offer some amendments. Especially it is important for Senators from States that are directly affected by this threat to have that opportunity. I commend the people who did work hard in getting this legislation to this point. I do think there has been a genuine effort to find some compromise and to make some improvements. Clearly, this bill as it stands is substantially better than what the House has sent us. But it can be substantially improved from where it is. I hope the amendment we offer can be seriously considered, and hopefully adopted, and we make those improvements.

With that, I yield the floor.

EXHIBIT 1

UNITED STATES GENERAL ACCOUNTING OFFICE—REPORT TO CONGRESSIONAL REQUESTERS

FOREST SERVICE—INFORMATION ON APPEALS AND LITIGATION INVOLVING FUELS REDUCTION ACTIVITIES

Why GAO did this study

The federal fire community's decades old policy of suppressing wildland fires as soon as possible has caused a dangerous increase in vegetation density in our nation's forests. This density increase combined with severe drought over much of the United States has created a significant threat of catastrophic wildfires. In response to this threat, the Forest Service performs activities to reduce the buildup of brush, small trees, and other vegetation on national forest land. With the increased threat of catastrophic wildland fires, there have been concerns about delays in implementing activities to reduce these ''forest fuels.'' Essentially, these concerns focus on the extent to which public appeals and litigation of Forest Service decisions to implement forest fuels reduction activities unnecessarily delay efforts to reduce fuels.

The Forest Service does not keep a national database on the number of forest fuels reduction activities that are appealed or litigated. Accordingly, GAO was asked to develop this information for fiscal years 2001 and 2002. Among other things, GAO was asked to determine (1) the number of decisions involving fuels reduction activities and the number of acres affected, (2) the number of decisions that were appealed and/or litigated and the number of acres affected, (3) the outcomes of appealed and/or litigated decisions, and (4) the number of appeals that were processed within prescribed time frames.

What GAO found

In a GAO survey of all national forests, forest managers reported the following:

In fiscal years 2001 and 2002, 818 decisions involved fuels reduction activities covering 4.8 million acres.

Of the 818 decisions involving fuels reduction activities, about 24 percent were appealed—affecting 954,000 acres. However, of the 818 decisions, more than half, 486 decisions, could not be appealed because they involved activities with little or no environmental impact. Of the 332 appealable decisions, 194 (about 58 percent) were appealed. There can multiple appeals per decision. In addition, 25 decisions (3 percent) affecting about 111,000 acres were litigated.

For 73 percent of the appealed decisions, the Forest Service allowed the fuels reduction activities to be implemented without changes; 8 percent required some changes before being implemented; and about 19 percent could not be implemented. Of the 25 litigated decisions, 19 have been resolved.

About 79 percent of appeals were processed within the prescribed 90-day time frame. Of the remaining 21 percent, the processing times ranged from 91 days to 240 days.

The Forest Service, in commenting on a draft of this report, generally agreed with the report's contents. Their specific comments and our evaluation of them are provided in the report.

SUMMARY OF FOREST SERVICE DECISIONS AND APPEALS INFORMATION FOR FISCAL YEARS 2001 and 2002

Decisions/appeals	Little or no impact/not appealable	Impacts initially uncertain or significant/appealable	Total for all decisions
Number of decisions	486	332	818
Number of appealed decisions	3	194	197
Percentage of decisions appealed	<1	58	24
Acreage (in thousands)	2,989	1,804	4,793
Acreage appealed (in thousands)	4	950	954
Percentage of acreage appealed	<1	53	20

Source: GAO data and analysis.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized at this time.

Ms. MURKOWSKI. Madam President, we have had a great deal of discussion about the fires raging throughout California this week. We talked about fire seasons in the past several years. The years 2000, 2002, and 2003 fire seasons have been some of the worst on record nationally. In 2002, in my State of Alaska alone, we experienced fires that burned over a million acres. Over a million acres in Alaska were burned in 2002. In this year, in 2003—this is from a report that is current as of yesterday, taking into account what is happening in California as we speak—to date, approximately 3.6 million acres have burned nationwide—3.6 million acres, and burning.

Forest fires are a huge problem, predominantly in the West, for those of us in the Western States. It is interesting to look around the Chamber this afternoon and see how many of the Western State Senators are paying very close attention to the debate on this legislation.

We know, we can see the damage to our forested lands from these catastrophic wildfires, many of which have resulted from forests that have been devastated by insects and by disease.

Deteriorating forest and rangeland health now affects more than 190 million acres of public lands throughout the country.

Again, as we have seen from the pictures which the Senators from California displayed and from the newspapers, the areas where the fires are ravaging the hillsides and destroying communities are areas that were affected by insects and disease.

I want to take us to a picture of Alaska, as the good Senator from New Mexico, Mr. DOMENICI, mentioned not too long ago. In my State, our forests have been infected and literally torn apart by a beetle known as the spruce bark beetle. The spruce bark beetle, other insects, and other diseases have devastated hundreds of thousands of acres along the Kenai Peninsula and in the Chugach Mountains, and outside of my hometown in Anchorage along the hillsides. You are talking about the wildland/urban interface communities and how it all plays out. I see that very carefully and very closely every time I am home.

The picture that I have behind me is a picture from the Kenai Peninsula in the southern part of the State. This is a picture of forests that have been totally wiped out by the spruce bark beetle. There is not a tree that you look at in the forefront or in the background that is alive. Every one of these trees are dead. They were killed by the spruce bark beetle.

As the Senator from New Mexico mentioned, it is like a Christmas tree that you have put out on the back porch and it no longer has any water. The leaves are crumbly to the touch and fall when you touch them.

These trees that you are looking at are probably 30 to 40 feet high. It is tough to estimate the girth of the trunk. But these are very mature old-growth trees that are standing waiting

for an accident to happen—waiting for a fire. This is not tinder sitting on the forest floor. This is standing tinder that is just waiting to be devastated and to devastate potentially property and human life.

As we look at this picture and understand the stands we are talking about here, I mentioned that there were hundreds of thousands of acres which have been devastated by insect and disease in Alaska. The spruce bark beetle has literally changed the forests in Alaska. Over 5 million acres of trees in south-central and the interior of Alaska have been lost to the spruce bark beetle over just the past 10 years.

This picture shows, I have been told, the result of trees that have been infested for about a 10-year period. These were perfectly healthy, strong, and living trees. The entire forest has been wiped out by the spruce bark beetle.

We are told in Alaska that this is one of the worst recorded incidents of beetle kill and infestation in our history.

You do not see any homes. You do not see any development. This is out in the wilds of Alaska, if you will. But adjoining the Chugach National Forest, off of the Kenai Peninsula, we have many smaller communities—certainly not a Los Angeles-type of community but we have homes. We have towns that adjoin these national parklands.

We have a little community called Moose Pass which sits right in the middle of dead and dying trees.

My home city of Anchorage, the largest population center in the State—about half of the residents of the State of Alaska live in Anchorage—is rimmed by the Chugach National Forest. We are dealing with the infestation of the spruce bark beetle as it is traveling north. The danger is made even worse when you couple it with the fact that we have had low snowfalls in recent years. Again, it is an accident almost waiting to happen. We don't want to happen in Alaska what we are currently seeing in California.

Our public land laws and regulations should not make it difficult to cut down the dead or the dying trees that are nothing but potential fuel for these catastrophic wildfires. Our Nation's policy has to allow for responsible forest management that includes the ability to remove, when appropriate, wildfire fuel from our forests.

That is why I am supporting the bipartisan amendment to title I of H.R. 1904. In particular, there is a subsection which will authorize treatment under title I on Federal land. This technical change allows for hazardous fuels reduction on Federal lands on which wind throw or blown down ice storm damage or the existence of disease or insect infestation has occurred and poses a significant threat to an ecosystem component on Federal land or adjacent non-Federal land.

I suggest to you, looking at this picture and understanding the extent of the insect infestation that we have, that it certainly poses a significant threat to an ecosystem component.

The Kenai Peninsula National Forest System land contains approximately 223,000 forested acres of which 119,000 contain spruce trees with a percentage of old growth. These old-growth stands are susceptible to the spruce bark beetle or are already dead.

The amendment we are speaking to—the bipartisan amendment under title I—will allow Federal land managers to manage the dead and dying tree stands.

The prespruce bark beetle epidemic condition on the Kenai Peninsula had a significant acreage in unmanaged old-growth spruce which was very susceptible to massive mortality and the buildup of the spruce bark beetle population. The key to long-term forest management on the Kenai Peninsula that will prevent a reoccurrence of the type of spruce bark beetle mortality is to manage the forested landscape for a variety of species' compositions, structures, and age classes—not simply unmanaged old-growth stands.

To maintain the watershed health—which we certainly need—the Chugach National Forest needs to manage the landscape on the Kenai Peninsula for a variety of species, structures, and age classes.

With the technical change that we are seeing in this amendment, it allows for old-growth stands such as those existing on the Kenai Peninsula to be treated without restriction related to the old-growth provisions that are being offered in other sections of the amendment.

I believe that with the legislation before us—the Healthy Forest Restoration Act—we have a comprehensive plan focused on giving the Federal land managers and their partners the tools they need to respond to national forest health crises. That is what we have in Alaska. That is what we are seeing in many parts of the West.

This legislation directs the timely implementation of scientifically supported management activities to protect the health and vibrancy of Federal forest ecosystems as well as protecting the communities and the private lands that surround them.

I support what we are doing with H.R. 1904 and certainly encourage Members' support.

Mr. COCHRAN. Madam President, after consulting with the leaders and those interested in talking about this amendment before we vote, I am now in a position to propound a unanimous consent request.

I ask unanimous consent that at 3:35 today the Senate proceed to a vote in relation to amendment No. 1828, with no amendments in order to the amendment prior to the vote; I further ask consent if the amendment is agreed to, it then be considered as original text for the purpose of further amendment; I finally ask that the following Senators be permitted to speak prior to the vote: Senator ENSIGN for 10 minutes; Senator BENNETT for 5 minutes; Senator MURRAY for 5 minutes; Senator KYL for 5 minutes; and Senator CRAPO for 10 minutes.

Mr. REID. Madam President, I ask the manager of this bill, the chairman of the committee, to modify his request to allow Senator LINCOLN 10 minutes, and that following the disposition of this chairman's amendment, Senator BOXER be recognized to offer the next amendment.

Mr. COCHRAN. Madam President, I ask that my request be so modified and that the vote occur at 3:45 instead of 3:35.

Mr. WYDEN. Madam President, for purposes of asking the distinguished chairman of the committee, it is your desire, I gather, we would then have the vote at 3:45 and that would in effect end the opening statements on this legislation; we would move to amendments, beginning with the Boxer amendment, and then throughout the rest of the day pick up the rest of the amendments and hopefully move as quickly as possible.

Mr. COCHRAN. The Senator is correct.

Mr. REID. Although I would say, if the distinguished Senator would yield, people still have an opportunity if they want to offer their comments on the bill itself. There is nothing in the request which would prohibit that.

Mr. COCHRAN. With that understanding, I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. ENSIGN. Madam President, I will make a few comments about the underlying legislation, the Healthy Forest initiative, and give a perspective from another western state, the State of Nevada, my home State, and some personal experiences I have had in the last few years.

I saw a wonderful program on the Discovery channel about the history of forest fires in the United States. They went back a few hundred years and talked about the natural burning of the forests and how forest fires occurred. We had fairly catastrophic fires in the early 1900s that changed our attitude because a lot of people were killed in those fires. It changed the way we looked at forest fires. We decided to try to put forest fires out using various methods of fire suppression.

Over the last 100 or so years, in trying to put out all these forest fires, we have stopped the natural clearing of the underbrush. As humans have moved more into the forests with our development, even if we wanted to go back to allowing natural burns to occur, we could not do that because of the devastation that can occur such as we are seeing in California with people living so close to the natural environment.

There are some things we can do to manage our forests so when the fires do occur they happen in a more natural fashion. What we have been seeing in the last several years is they are not natural fires. They are catastrophic fires and they burn the entire forest. They literally sterilize the ground.

There is so much fuel that there are incredible temperatures. When the forest fires used to move through, they would pretty much burn the undergrowth. They would char the big trees, they would char the bark on them, but they would leave the crown of the forest alive. As the forest fires moved through and cleared the underbrush, it gave the forest a chance to revive, gave a chance for little seedlings to take root. It was a nice cleansing process for the forests.

Now that we have started putting all the forest fires out, we have a huge fuel buildup. Now when the forest fires burn through, they burn the underbrush and they burn the crowns of the forest. They basically wipe the entire forest out. It is an unnatural event that is happening today. We are losing endangered species. When you wipe out the whole forest you lose not only animal life, you lose incredible plant diversity as well. We end up with erosion because there is nothing to hold the ground when the rains come.

I have been in the West almost all of my life—mostly in Nevada, lived in Oregon, lived in California, lived in Colorado some, attending schools—and I have visited a lot of forests there. We have our family reunion up in Black Butte every summer. I was there during the huge forest fire Senator SMITH was talking about earlier; that is still going on. We were there July 4 and that fire is still going on today. They are waiting for the snows to come to put that forest fire out.

In comparing the forests from the East to West, in the East there is much denser forest. That may be OK because of the amount of rain and the amount of moisture in the East. We do not get that kind of moisture in the West. My State, the State of Nevada, is the most arid State in the entire country. We have what are called ''desert forests'' that do not have a lot of undergrowth. That is where those forest fires are able to move through, clear out a little of the underbrush and leave the crowns pretty much intact.

What happens in the West versus the East, we get periods of drought. We are in about a 5-year drought right now in the West. We had 3 good years before that of rain. Before that was another 6-year drought. During those periods of drought you get the bark beetle Senator MURKOWSKI was talking about in Alaska. We have that in our State, especially around Lake Tahoe. During the 6-year period of drought, the bark beetle devastated a lot of trees in the Lake Tahoe basin.

I was up there touring some of the Federal lands, some of the State lands, and saw the difference in our policies, State versus Federal. Comparing State versus Federal versus private lands, the least healthy forests are the Federal lands. That is what this underlying bill is trying to correct, the problems we see on Federal lands.

In the State lands, they are cleaning the underbrush. There is a lot of emotion generated by the groups participating in these projects. As a matter of fact, in one area where they were doing the thinning of the underbrush—it is not just underbrush, but they are clearing out the fir trees. The big Ponderosa pines are being choked out by the fir trees. A lot of fuel goes in there. The sunlight cannot get in so these pine trees can grow in the way they were intended to grow naturally. When they were going through and cleaning and clearing some of this out, they got a lot of complaints because it was near this very popular hiking trail up at Lake Tahoe. There were a lot of complaints and protests.

A year after the first area was cleared out, they saw the positive ecological results of that clearing. One result is that the aspen trees are coming back to that area. They were choked out by the fir trees. There is more biodiversity. If a fire now goes through, it will burn naturally instead of the catastrophic fires we have seen so much in the West. Six hundred thousand acres so far have burned in the State of California. That is a huge amount of land.

In 1999, in my State, 1.8 million acres burned. We have been lucky the last few years, but my State is ready to go again, just like most of the western States. It is not just the forest fires we worry about from these fires, like the almost 2 million acres we had in Nevada—and fires in California, Oregon, Idaho, Arizona, and on and on and on in the West—these forest fires are creating air pollution.

We just got calls, because the winds shifted in California, and the pollution from the fires is now coming to Nevada because the winds changed directions.

When the Oregon fires were blowing last year, the pollution from them came down into the State of Nevada. I was up at Lake Tahoe, and, boy, you could not even see. It was like we were in a horrible pollution day down in Southern California. It was so dense, the pollution was so bad, and the ash came down from these forest fires.

It is not just the forest health we are worried about, it is also our air's health. If people who care about air pollution want to do something, the No. 1 thing we could do is to make sure we have healthy forests into the future. Because if we do not have these devastating fires, we will not have as many acres burn per year and as much of that stuff going up into the air to cause pollution. These fires that are occurring are much worse than anything man is producing on an industrial basis. To protect our air, we should be doing this.

Protecting the environment, protecting property, and protecting people are not mutually exclusive. We can do all of them together if we have reasonable laws. That is really what this bill is about.

Two other areas I want to talk about quickly. One is in Carson City, and one is in Ely, NV—great initiatives on this urban interface with the forests that were going on. The one in Ely occurred on Federal lands. Everybody was together. Environmentalists locally were together with local governments and the Federal Government. Everybody was together on this initiative. They had it all worked out. The plan was in place, ready to go. One person from Idaho filed a protest. They didn't even live in our State—one person from Idaho. Almost 3 years later, we are still waiting to implement the plan, and a fire that comes through there would be devastating. One person from Idaho—that is what this bill is trying to fix, to make sure that one person cannot stop land managers from doing the right thing.

The other quick example is Carson City. It is not Federal lands. It is State lands, local lands. All the people who care about the environment worked together. They have a beautiful fire protection plan being implemented that is ecologically balanced. It is protecting the local communities as well as protecting the forests. That is the type of balanced thinking we need going forward so we protect people, we protect property, and we protect the environment all together.

I also want to express my condolences to all of those who have been impacted by the fires in California, especially those who have lost friends and family members. While this legislation will not help the people fighting forest fires today, it will hopefully prevent such fires from occurring in the future.

The Healthy Forest Initiative authorizes hazardous fuel reduction projects that are essential for the health and well-being of our Nation's forests. It focuses on specific at-risk areas that are at the greatest risk of wildland catastrophic fire, the kind that has devastated California, my State's neighbor. These kinds of fires are intense, they are unforgiving and they certainly don't discriminate as to what will lie in their destroying path. My heart goes out to those whose lives have been affected by catastrophic fire.

To reiterate, in my home State of Nevada, our worst fire year was 1999 when 1.8 million acres burned. Since then we have been fortunate compared to other States. But we know that it is only a matter of time before fires ravage our land again. Currently there are over 10.7 million acres that are at-risk for catastrophic wildfire in the State of Nevada. That's 10.7 million acres that need to be treated immediately. With the proper treatment, we can lessen the effects of the fires that will inevitably come. It is not a question of if fires occur, but a question of when.

Catastrophic fire occurs every year. This year California and Oregon have been hit; last year it was Colorado, Oregon and Arizona. In past years, New Mexico and one of our Nation's most treasured national parks, Yellowstone faced catastrophic fire. In 1999, when 1.8 million acres burned in Nevada, unfortunately, that was not a one-time

event. In the past 5 years, 3.3 million acres have burned in Nevada.

However, that being said, there are excellent tools available to the land managers of this country. Thinning densely wooded areas and cleaning out excess brush lessens the ability of fires to spread as fast, burn as hot, and consume as much as they already do. To carry out these projects, land managers must go through a rigorous assessment process. They must ensure that the public is able to participate in the process. And they must comply with current environmental statutes and forest plans. This is appropriate and necessary. It is a very lengthy and thorough process that all too often is railroaded by one dissenter. One extreme group will fight it through the administrative appeals, the courts and will do everything to kill a completely collaborative process.

A recent GAO report noted reported that the vast majority of appeals to fuels projects result in no change in the Forest Service's decision. Only 19 of the 180 appealed decisions were reversed, which means that the remaining 161 projects—89 percent of those appealed—were delayed unnecessarily. We say it time and again, but frivolous lawsuits which put these projects on hold are a threat to homes and people. More than half of the appealable decisions that were designed to protect communities from wildfire were appealed. During the review process, these communities remained under the threat of catastrophic wildfire. We do not have the time to provide extreme groups the luxury of thwarting sound management decisions. It has happened in my State, as I mentioned before, and it happens more and more every year.

That is why passing this amendment is so important. It expedites the approval process. It cuts through the bureaucratic red tape. It still ensures that administrative appeals and judicial review is available to the public. However, only individuals who have actively participated in the administrative appeal process can then challenge the final decision in the courts so these projects cannot be blindsided by those who refuse to participate in the full process.

I stood here a little over a year ago and called for this type of action. I was joined by so many of my colleagues in this body, and yet again nothing was done. Since that time we have seen millions of acres burn throughout the country. The Forest Service has estimated that 2.8 million acres have burn in 2003 alone and that does not count the millions of acres in California and the more than 1500 homes destroyed over the weekend, not to mention the deaths of those struggling to escape these deadly fires. I don't want this to happen to Nevada. I don't want this to happen in any State. I don't want to stand idly by and allow this kind of destruction to go any further. We need to do something and we need to do it now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. 1708

Mrs. MURRAY. Madam President, in just a couple minutes I am going to offer a unanimous consent request to move to consideration of a bill to provide extended unemployment compensation benefits to displaced workers and to those who have exhausted their benefits.

Today there are 9 million Americans who are unemployed, and the percentage of long-term unemployed is at a 20-year high. Our first priority in this Congress should really be to get America back to work. The current unemployment benefit extension, as I think all my colleagues know, expires at the end of December.

Our economy is continuing to create only one job opening for every three unemployed Americans. So it is clear the current Federal program is inadequate to address the needs of out-of-work Americans in today's troubled economy.

Another extension with no additional weeks of benefits will leave far too many of our workers and their families out in the cold. In my home State of Washington, there are 124,000 people who will exhaust their benefits by the end of the year. In addition, more than 1 million Americans have run out of unemployment benefits and remain without work. These Americans have been stretching their savings, refinancing their homes, moving in with other family, and depleting their retirement accounts. Three out of four workers are now running out of benefits before they find a job.

In past recessions, we have included these workers in additional extensions. But so far Republicans have insisted on leaving them out. The Emergency Unemployment Compensation Act, which we are introducing, would help 4.6 million Americans make ends meet while they search for new jobs.

I know we are dealing with a forest health issue today. It is extremely important to many Senators. But we have also thousands of Americans whose extensions are going to run out very shortly. Everyone is working very quickly here to wrap up all the bills. We all want to go home. I know when we go home, we want to make sure the people we go home to are not left out in the cold.

I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 1708, a bill to provide for a 6-month extension of unemployment compensation, with additional weeks of benefits, as modified to strike title II and ensure that high unemployment States are not penalized for having high unemployment throughout the recession; that the Senate then proceed to its immediate consideration; that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. CRAPO. Madam President, we are on a very critical bill right now and I must object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Madam President, I heard the objection from my colleague on the other side, and I would like to have him respond, if he would, as to when the Senate will consider this important piece of legislation.

As I said in my remarks, I know we are dealing with an issue that is important to many States, but we have to provide some financial relief to millions of Americans as we approach the holiday season.

I know my colleague understands the current extension ends on December 31. We are all working quickly to go home. I want to know if we can get a commitment that we will go to this bill so we can provide for these workers so they can be at home paying for their food and shelter that is so important to them. Can my colleague tell me when the Senate will consider this legislation?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Madam President, I would be glad to respond.

As the Senator from Washington knows, all of us have very critical issues that are very important to us, that we are trying to get time on this floor to consider. The way we handle that is we work with our respective leadership in scheduling these matters. I am not in a position right now to speak for either the leadership on the other side or my own leadership with regard to what kind of an agenda they intend to put forward with regard to the floor. What I do know is we have waited our time for this Healthy Forests legislation to come forward. We now have been given floor time, and we cannot relinquish it. Therefore, I will just encourage the Senator from Washington to work with her leadership and our leadership to see when the scheduling issue she wants to address can be brought forward.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I thank my colleague. I know he is not in a position to speak for his leadership at this time. I would just say to all of my colleagues on the floor, it is critical we allow time as soon as possible. We can take as short as 10 or 15 minutes to get this passed. We have thousands of constituents across the country whose benefits are going to expire. If we wrap up this session and go home without passing this bill, we are going to leave them out in the cold without the ability to put food on the table, pay their rent, pay their mortgage, pay their college tuition bills, and really make it through a very difficult time.

As we all know, the unemployment in this country has risen. We know more people today are unemployed than there were a year ago. The numbers are rising. The extension needs to be passed.

I notify my colleagues I intend to continue to come to this floor on a daily basis to try to bring up this bill until we get a commitment from the Republicans to have a vote on this extension.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. MURRAY. Thank you, Madam President. I yield the floor.

Mr. CRAPO. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAPO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Madam President, I ask permission to utilize the 10 minutes which I have been allocated under the unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Madam President, we are getting close to a vote on this amendment. I wanted to take this opportunity to respond to a couple of the issues that have been raised by those in opposition to it.

First, it is notable that very little in opposition to this amendment has been said. There are a few things I will get into, but the fact is, as we said at the outset, a broad group of bipartisan Senators have come together to address the issues from all perspectives and build a common ground forward. I believe the relative lack of attack and concern that has been raised with regard to this amendment is indicative of the success which those Senators have achieved.

There have been a few criticisms made though. I want to respond to some of them.

First, with regard to the allocation of the resources, it has been argued that only 50 percent of the resources have been allocated to the wildland/urban interface. Remember, we have $760 million worth of resources allocated in this bill. The point, however, needs to be made that in addition to the fact that our wildland/urban interface needs to be addressed, much of the problem exists out in the forests away from that wildland/urban interface. In fact, when the forests get hot and get burning, when you get winds such as we are seeing in California right now, it is very important to have protection more than just 100 yards or a couple hundred yards away from the wildland/urban interface.

We are seeing in California right now what high winds and geography can mean with regard to a forest fire, and we must have the flexibility in our forest managers to make the decisions about where the best management should occur.

We also have heard that there is apparently a disagreement between the proponents and opponents of this legislation with regard to what the real problem is. Those who oppose this amendment say that the real problem is that we are not putting enough resources into fuel management and fuel reduction issues. Those of us who are proposing the legislation are said to be focused more on trying to reduce litigation.

The fact is, this is an indication of the fact that there are different points of view as to what we ought to be doing. It is what this bipartisan group of Senators did to address the issue. There are some who believe we need to solve the problem by putting more resources on the ground and getting those resources out there in forest management. That is why this bill authorizes $760 million of resources to go into the management of our forests.

We do, however, recognize that there is a large problem in the litigation arena. It is that litigation problem that the bill also addresses.

There have been arguments made that as a result of our efforts to address the litigation paralysis, public involvement has been limited. That is simply not true. No public involvement under NEPA has been eliminated. In fact, the predecisional appeals process we are proposing to create in this legislation will create a new avenue of public involvement. What we are saying, however, is that the litigation has to be brought in the State or the district where the fire is, where the proposed project is. Those who want to get involved have to exhaust their remedies, a very standard legal procedure that is required in many areas. Before you are going to file a lawsuit, go through the administrative procedures that are provided to try to achieve your objectives. And then, finally, if that doesn't work, there still is the route of litigation allowed. We simply encourage the courts to act expeditiously and require the courts to look at it every 60 days to see if the circumstances have changed.

I believe these are reasonable and fair protections that are built into place.

There has been discussion that even though we have $760 million allocated for forest fuel reduction projects and management in this bill, that the bill doesn't guarantee that that money will go there because it is not an appropriations bill. That is the same thing that is true about every authorization bill. The fact is, when we authorize these moneys, under the way the Congress works, it is still necessary for the Appropriations Committee to then appropriate the moneys. We will be working with the Appropriations Committee to take that next step. But to criticize this amendment because it is not an appropriations bill is simply to put up a false attack and to create a false impression that this is not a meaningful authorization of $760 million, subject, as all bills are except for entitlement programs, to the appropriations process.

One final point: There has been an argument that litigation really isn't the problem because a recent GAO report showed that the vast number of forest management decisions were not appealed. That study and the way people use it shows how you can use numbers to achieve different results depending on the outcome you want to address. The fact is, categorical exclusions represented a significant number of the actions of the agency. These are actions which the current law—not this law, but current NEPA law—does not require or allow to be appealed.

The reason is because they are basically the kinds of actions that have negligible or have no impact on the environment. It is things such as cutting firewood and mowing lawns and other types of categorical exclusion activities. There is more than that that is in that category. But the point is, these are categorical exclusions for things that have no significant environmental impact.

That is a current part of the existing law. When you look at the proposed treatments that have been more than a categorical exclusion, that require further NEPA analysis, then the level of appeals goes up dramatically. In fact, 59 percent of them are actually appealed. Of those that were appealed, it is interesting to note that most are found to be without merit; 19 out of 180 were reversed.

My point is, as I said earlier today, even though these appeals may be lost, what they do is cost the time, sometimes a full year or more, for the implementation of the management decision, which in many cases makes it moot at that point because the insect infestation has gone beyond the proposal, or because a fire has occurred or something else has made it so that the Forest Service simply can't proceed.

We are facing litigation paralysis. We do need additional resources on the forests. This is the first legislation in the history of the country that has provided statutory protection for old growth. This is a bipartisan compromise that will help us move significantly forward in these efforts to address this critical problem in our country.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I ask unanimous consent that Senator MILLER and I be added as cosponsors of amendment No. 1828.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Madam President, I appreciate the comments made by my colleague from Idaho and I rise to give a case study example of what he is talking about. We will give States and specifics here. They are similar to those that came from the Senator from Alaska.

In 1991, a forest health aerial detection survey was made in Utah that discovered the bark beetle in certain parts of the Dixie National Forest. Forest

health specialists advised that it might be necessary to suppress the epidemic by removing some of the infested trees and thinning some of the standings. At the time they made that decision, this photo depicts what the forest looked like: healthy, green, a place that was of some pride to the people who lived there. This is called the Sidney Valley Recovery Project, proposed as part of the strategy to suppress the spread of the epidemic into that area.

As soon as this was announced, three different environmental groups filed appeals of the project and, naturally, it was delayed while those appeals were heard. Finally, after the delay, the Forest Service was upheld, so the appeals were examined and found to be without merit. The Forest Service was upheld. The Southern Utah Wilderness Alliance chose to file a suit in Federal court. There were the typical delays connected with litigation, and the Federal court finally threw out the lawsuit.

So you had the appeals to begin with; they were disavowed; and then you had a lawsuit. When that was disavowed, OK, now you can go ahead with your effort to protect the forest. The only trouble was, at that point, this picture depicts what the forest looked like. These are not trees with leaves turned because it was fall. These are pine trees. The reason they are brown is that they are dead. If you drive through the Dixie Forest, which I have done, it almost makes you sick at how terribly decimated the forest has become. The only reason is that the Forest Service's professional managers, trained in dealing with these kinds of epidemics, were prevented from going in there by special interest groups until it was too late. I am sure there were mailings made in these environmental groups saying: Help save the Dixie Forest from the people who would build roads.

Well, they saved the Dixie Forest from the people who might put in logging roads, but they killed it in the process. The epidemic has now spread and there is no stopping it now. There is no going back. There is no saying, let's reverse this. The trees are dead and the Dixie Forest is a blight. The people who live there and know how to take care of these things are sick at heart at what has been done, while those special interest groups, most of whose members do not live in Utah, can claim victory. Well, they cannot claim victory in the lawsuit because they lost the lawsuit. They can only claim victory if their goal was to destroy the forest.

It is summarized by one of the former managers of the Dixie Forest who says: ''It leaves us with the strategy of win the lawsuit, lose the forest.''

I have a terrible time understanding why people who claim to be ''friends'' of the forest, ''friends'' of the environment, end up producing this kind of result. That is why I have joined as a cosponsor of this amendment. I applaud the administration for their initiative in saying let's have healthy forests. Fortunately, the Dixie Forest has not yet caught fire. But the trees are just as dead either way. The blight is there just as much either way. We may have been spared the devastation of fire for the communities around the Dixie, but we have not been spared the devastation of the epidemic that has destroyed this portion of the Dixie Forest.

For that reason, I am proud to be a cosponsor of this amendment, and I urge all of my colleagues to vote in favor of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Madam President, I am very proud to be in the Chamber discussing the Healthy Forests Restoration Act with an eye toward its quick passage through the Senate.

I first want to applaud both Chairman COCHRAN for shepherding this bill through the Agriculture Committee and to the floor.

I'd also like to thank Senator CRAPO, who chairs the Forestry Subcommittee, for his leadership in moving this legislation through the Committee expeditiously.

Chairman DOMENICI and Chairman COCHRAN, and Senators CRAPO, WYDEN, FEINSTEIN, CRAIG, KYL, MCCAIN, and I have brokered a workable compromise to Title I of this bill which we believe will prove amenable to the Senate and move on to a conference with the House.

Want to especially thank our staffs, who have put in many hours of hard work over two months to bring us to this point.

this bipartisan compromise legislation builds upon the Healthy Forest Restoration Act, which passed the House of Representatives earlier this year.

Our legislation will ensure that we can address the many problems affecting all of our Nation's forests—both on public and private forestlands, in southern and western forests, and throughout both hardwood and pine ecosystems.

This legislation is intended to correct the direction of forest legislation in this country.

I am also proud that the bill contains many provisions that I have championed and that are beneficial to my home State of Arkansas.

I began my work on this legislation with the intent to accomplish a few, very specific goals related to the health of Arkansas' forests.

First and foremost, we must provide the Forest Service with the tools necessary to immediately address the epidemic of oak decline and mortality in the Ozark highlands of Arkansas and Missouri.

I am proud the bill incorporates language I have championed to provide the Forest Service with the tools necessary to immediately address the epidemic of oak decline and mortality in the Ozark highlands of Arkansas and Missouri.

Just as our Western forests are under constant threat from fire, our Eastern forests are under constant threat from insects and disease.

We cannot let any more time pass without ensuring the Forest Service can quickly mitigate the effects of insect and disease damage throughout our forests before it reaches disaster proportions.

Oak decline is a natural occurrence in older forests or in areas where trees are stressed by conditions such as old age, over population of the forest, poor soil conditions, and the effects of several years of severe drought. And under normal conditions, oak decline is not necessarily fatal to the tree.

However, these conditions have allowed insects such as the red oak borer to flourish throughout the forest and have led to an epidemic of oak mortality throughout our forests.

In fact, many estimates now suggest that potentially up to one million acres of red oaks have been affected in the Ozark highlands—a devastation we never anticipated.

It is important to note that this epidemic has not been long in coming—it was only first discovered in the late 1990s, and quickly was out of control.

I am concerned that this epidemic will lead to a complete loss of red oak from the Ozark highlands and cause long-term changes to the health of the forest ecosystem.

It is also important to remember that the epidemic has not been limited to public lands. Private forest landowners and homeowners throughout the Ozarks face the same problem. The past several years of extremely dry summer conditions have weakened trees throughout the region.

Secondly, as we have seen, Arkansas was caught almost flatfooted as the epidemic of oak mortality swept through the Ozarks and severely endangered the health of our forests.

One of my priorities was to establish a new Upland Hardwood Research Center to ensure there is adequate research performed on the issues affecting Arkansas' and this Nation's hardwood forests.

I am pleased that the bill includes language I authored to establish an Upland Hardwood Research Center within the U.S. Forest Service. This new center will study the myriad of insects, disease, and problems affecting our ability to rehabilitate, restore, and utilize our upland hardwood forests. Establishing this new research center will help ensure that this does not happen again.

The establishment of this new research center is necessary to ensure we can quickly identify and respond to the multitude of pests, disease, and other damaging agents that can dramatically affect our beloved forests, especially when they are smaller ones as we have in Arkansas.

It is also important to find ways to streamline and improve the environmental, administrative, and judicial

review process for hazardous fuel reduction projects under this legislation.

I join many of my colleagues in believing that the review process for hazardous fuel reduction projects, while necessary and beneficial, often consumes more time, effort, and resources than the initial intent of the project.

As we have seen with the epidemic of oak mortality in Arkansas, the Forest Service must have the ability to quickly respond to insect infestation in order to protect, preserve, and rehabilitate the entire forest.

Streamlining of the environmental, administrative, and judicial review process for hazardous fuel reduction projects will ensure that we can quickly address what ails our forests.

This legislation also provides increased funding and direction for forest land research in this country. It will ensure our Nation's colleges and universities are able to devote more research into the insects and diseases affecting our forests.

We also require that any forest land research is conducted at a scale appropriate to the forest damage and that it be conducted within the requirements of each individual forest management plan.

Our legislation also includes requirements to ensure this research has clearly stated forest restoration objectives and is peer reviewed by scientific experts in forest land health.

I am also pleased the bill incorporates additional language from S. 1449 to provide funding for emergency grants to immediately remove the invasive plants that have become so pervasive throughout this Nation's forests. As many know, when we talk about invasive plant species in the South, you bet we are talking about kudzu.

Kudzu was brought into this country several decades ago to be used as cover for bare hillsides and has since spread to cover everything, including shrubs, bushes, entire trees, and oftentimes large sections of our forest. The grant program will provide the means for landowners to immediately remove kudzu and the myriad other invasive plants that are choking out forests.

Finally, this legislation includes widely agreed upon language that would provide for grants to remove noncommercial biomass from our public and private forests, provide for protection of our private forested watersheds, and provide for grants to establish private healthy forest reserves throughout the Nation.

Many of these important provisions were included in the Senate-passed farm bill last year, but they were not included in the final legislation, unfortunately.

Providing grants to remove noncommercial biomass will immediately reduce the amount of fuel on the forest floor and directly reduce the fire danger in our forests and around our communities.

Similarly, providing grants to protect our forest watersheds will ensure that we can address our water quality concerns with a voluntary, incentive-based approach.

Finally, providing funding to establish new healthy forest reserves from willing private landowners will encourage the preservation and rehabilitation of this Nation's forest lands.

I believe this important legislation will focus needed attention on a number of extremely critical goals for our national forest policy.

One lesson we have learned over the years is that if we value our forests and if we want to conserve our woodland resources, if we want to preserve their natural beauty, if we want to ensure that the natural bounty of our forest land is available to future generations to come to know and love and enjoy just as we all have in our different parts of this great country, then it is important that we manage those lands and resources with a careful eye toward their long-term health.

I look forward to this legislation's quick passage through the Senate and its quick enactment into law. I am delighted by the leadership provided by all of the Members working on this issue. I very much encourage my colleagues to join us in supporting Senator COCHRAN's amendment and moving forward with this bill in a timely way.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, if ever there was a bill where one could say its time has come, this is such a bill. It is critically important at this time for us to move forward to a vote on the Healthy Forests initiative. The House has passed a bill. We can pass a bill, get it to conference and the President for it to become law before the end of this legislative session. That must be our goal.

I begin by thanking Senator COCHRAN and members of his committee. They worked very hard to arrive at a compromise that was bipartisan, that could pass the Senate and be signed by the President. I am very appreciative of their hard efforts.

I thank the President for his leadership 2 years ago in putting this proposal together. What has been passed is not precisely what he proposed, but that is part of the compromise legislative process. We have worked to get a bill we can pass and, while not exactly what the President has proposed, as I said, it is a very good effort.

I want to select one other person who illustrates the effort to make this bipartisan. Last year, Senator FEINSTEIN was involved in our negotiations to come up with a bill. We got very close, but we could never get a bill we thought would have 60 votes to pass the Senate.

What did she get for her very hard efforts at fighting for this issue? She got vituperative ads run against her in her home State by radical environmental groups that criticized her for even talking to Republicans to try to come up with a solution.

The reason I mention Senator FEINSTEIN is because she was working on this long before the California fires that are now raging out of control. In fact, this compromise was put together before those fires ever started. So the people who were working on this before I think deserve some very special credit.

I also express thanks to those now supporting us because they have seen what can happen in the form of the California fires. Two years ago, we had these kinds of fires in Arizona. I thought that would awaken people to the danger that our overcrowded forests presented. I guess I didn't do a good enough job and others didn't in showing people what could happen in other places.

In just two fires, an area larger than the size of the State of Rhode Island burned. Two-thirds was on one of our very fine Indian reservation areas and about a third on Forest Service land. The President came to visit. Whole towns were evacuated. People lost their lives. But it still wasn't enough.

Earlier this year, the President again came to Arizona after the Aspen fire. The Aspen fire, on top of the Santa Catalina Mountains north of Tucson, burned about 350 homes in the space of less than 4 hours. I thought, finally this will awaken people. Still, it did not occur.

Over time, thanks to the leadership of the members of the Agriculture Committee and others, this legislation was put together. I express my appreciation that now that this conflagration is occurring in California, we are actually able to get this bill done. I think the Arizona experience illustrates the solution as well as the problem.

Let me give one example. I mentioned the Rodeo-Chediski fire. Most was on the White Mountain Apache Reservation. They are subject to the same environmental laws that apply to the Forest Service or the Bureau of Land Management. They went to work and got the work done. They began salvage operations—in fact, they completed salvage operations on the Indian reservation for the timber that had burned.

The reason they can do that is because it is very hard to sue an Indian tribe. Obviously, nobody did, and they got the work done, and their land has basically been salvaged from that fire.

The Forest Service put out a very small proposal on what is called a categorical exclusion area. Boom, they got hit with a lawsuit. Over a year later, the judge finally said: This process has to go forward. So he denied the relief of the plaintiffs who were not even from the State of Arizona.

It was basically too late to do very much work. They got some of it done, but the wood began to rot. It is called bluing, and it loses its character which is suitable for timber. You have to use

it for pallets and other uses that have low economic value. That was on a small piece of the land. The rest will never be salvaged. Why? Because it is easy to sue the Forest Service.

One of the things this legislation does, the Senator from Arkansas noted, is to streamline the process. One of the ways it does that is to say instead of having an unlimited number of alternative plans for a particular project in your NEPA analysis, under the National Environmental Policy Act, you do an environmental impact statement and show the various options: the no-action option, the option that is proposed, and one alternative.

Under existing law, you might have to have 20 alternatives. That might make sense if you are doing timber sales for logging. That is not what we are doing. We are trying to restore the health of the forest. The whole concept has been environmental, and there has been a lot of environmental work done on these projects before they are ever proposed, so you don't need a lot of alternative plans. That is just one example.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Madam President, I appreciate the hard work of my colleagues and hope they support this legislation.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 1828. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) 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 ''yea.''

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—97

Akaka	Chafee	Ensign
Alexander	Chambliss	Enzi
Allard	Clinton	Feingold
Allen	Cochran	Feinstein
Baucus	Coleman	Fitzgerald
Bayh	Collins	Frist
Bennett	Conrad	Graham (FL)
Biden	Cornyn	Graham (SC)
Bingaman	Corzine	Grassley
Bond	Craig	Gregg
Boxer	Crapo	Hagel
Breaux	Daschle	Harkin
Brownback	Dayton	Hatch
Bunning	DeWine	Hollings
Burns	Dodd	Hutchison
Byrd	Dole	Inhofe
Campbell	Domenici	Inouye
Cantwell	Dorgan	Jeffords
Carper	Durbin	Johnson
Kennedy	Miller	Shelby
Kohl	Murkowski	Smith
Kyl	Murray	Snowe
Landrieu	Nelson (FL)	Specter
Lautenberg	Nelson (NE)	Stabenow
Leahy	Nickles	Stevens
Levin	Pryor	Sununu
Lieberman	Reid	Talent
Lincoln	Roberts	Thomas
Lott	Rockefeller	Voinovich
Lugar	Santorum	Warner
McCain	Sarbanes	Wyden
McConnell	Schumer	
Mikulski	Sessions	

NAYS—1

Reed

NOT VOTING—2

Edwards Kerry

The amendment (No. 1828) was agreed to.

Mr. COCHRAN. 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.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

Mr. REID. Mr. President, I have spoken with the distinguished manager of this bill. He has agreed also with Senator HARKIN that Senator BOXER is going to speak for about 10 minutes on the bill. I will offer an amendment and speak for a few minutes on that, and then, with the suggestion and consent of the managers of the bill, she will ask that amendment be set aside and offer another amendment. The leadership has agreed we would have two votes at approximately 5:15, something like that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

Mrs. BOXER. Mr. President, I thank Senators COCHRAN and REID for allowing me to do this. I have been waiting for quite a while. We can get through some of these amendments.

I rise again with a heavy heart to report on the fires raging in my State and bring the Senate up to date on what is happening as of my last report at 3:30 p.m: 600,000 acres of land have been burned, more than 3 times the size of Chicago; 2,000 homes have been destroyed, 18 people are dead. Governor Davis has declared Riverside County a state of emergency. Riverside has asked the President to declare a national disaster there. I have written to the President asking him to act.

In San Diego, we have 30,000 people without power. Our public schools are closed due to bad air. The Cedar Fire in San Diego is raging out of control. It is threatening to merge with the Paradise Fire. The fires as of 3:30 were only 5 miles apart.

The head of the California Department of Fire, Chief Chuck Mayner, said that they have not gotten all of the equipment and the help they have asked for. Senator FEINSTEIN and I have been getting different information. It is a little disconcerting. Yesterday, I heard they got all the equipment. Today I hear they have not. We actually have heard from CDF Chief Mayner that he has not gotten all the equipment and the help. That is backed up by Jim Arta, the deputy chief. I have a list of the things they have asked for. I hope FEMA will act on this.

I have met with Mr. Michael Brown. He is very open to doing all he can, but I merely want to say on the record that we need help. We need strike teams. Strike teams are a combination of resources composed of fire trucks and personnel. We need strike 2 teams composed of fire trucks designed for fighting brush fires. We need 11 engine strike teams for the Paradise Fire, 33 hand strike crews, 12 single resource dozers, two type 1 helicopters, one type 2 helicopter.

We need for the Cedar Fire, in addition to strategic 1 strike teams, strike 3 teams, five type 3 helicopters, four type 1 helicopters, and one type 2 helicopter.

As I stand here giving this report from just a few minutes ago, we are not getting all the help we need to fight these fires. We need it desperately. We urge everyone to work together to get the equipment into these areas.

Our brave firefighters are working to save Julian, which is a town in San Diego County. The winds are making the situation worse. There were hundreds of firefighters working there. The city of Cuyamaca is 90 percent destroyed and 150 homes are gone. In Ventura, we have the Scenic Valley Fire threatening the Stevenson Ranch area. They are already asking us for a FEMA disaster center there.

In San Bernardino, we still have the Old Fire. It is raging out of control, threatening Big Bear and Lake Arrowhead communities. Unpredictable winds are making things worse.

I had a good meeting with a FEMA director today, and a good meeting with Governor-elect Schwarzenegger today. We are all on the same page. We all want to open disaster centers, disaster assistance centers, known as DACs, in the State. I had recommended one in each county. We will have that, plus a couple of mobile units. We are probably going to need more disaster centers because we are talking about so many miles, so many acres. Six hundred thousand acres is a lot of land here. We do not want people to have to go far distances to get what they need.

I want to show a few pictures to my colleagues so you can see what things look like. This is a picture of a home burning in San Bernardino. You can see the raging fires there. Somebody's hopes and dreams are just gone.

I show you a Marine Corps base in San Diego. This is Camp Pendleton. This is a hillside. You can take a look at these fires, and when I am done with these brief opening remarks, I am going to lay down an amendment which deals with helping people in terms of the quality of the air. I wanted to show that.

I want to also share with my colleagues that nine of us, back in April,

sent a letter to the President. I think this is extremely important. This letter was signed by Republicans and Democrats alike—two Senators and Congressmen DREIER, HUNTER, BACA, CALVERT, CUNNINGHAM, ISSA, FILNER, DAVIS, BONO, and LEWIS—equal numbers, approximately, of Republicans and Democrats.

This is what we asked the President for in April:

We are writing you today to encourage your swift approval of California Governor Gray Davis' request of a Presidential emergency declaration for Riverside, San Bernardino and San Diego counties relative to the high threat of forest fire in these regions.

Due to drought conditions and infestation by the bark beetle, our national forests have been met with an unprecedented danger as the bark beetle has attacked over 415,000 acres of trees in these three counties. Because of the unique urbanization in and around forests, this infestation has created a tinder box of such magnitude that the loss of life and resources would be incomprehensible should fire break out.

My friends, we said—nine of us—we could have fires like this. We said:

Most of the affected trees are on or adjacent to federal lands, making this crisis well beyond the ability of state and local authorities to manage. Therefore, it is critical that the federal government help provide financial assistance for infested tree removal from public and private lands, as well as assist with other mitigation measures. Now that the State of California has requested a federal emergency disaster declaration, your help at this juncture remains critical and would make a positive impact in these areas of Southern California.

We conclude our letter:

Mr. President, we appreciate the various burdens being placed upon you in these challenging days. However, we urge you to consider this matter as expeditiously as possible since these areas are in need of immediate federal assistance.

In a bipartisan way, nine of us asked the President to declare an emergency, and he did not do it. We did get some small funding. It helped a little bit. But we did not get the help we needed. We begged for it. I guess if we had a crystal ball, maybe things would have been better.

We all were asking for buffers around our communities. I think the importance of this legislation before us is it is our opportunity to direct funding, adequate funding, to make sure these buffers are created and the fire damage is diminished greatly.

I myself want to make sure this bill is a Healthy Forests bill and is not something else, a ''cut down the forests'' bill. I will be supporting many amendments to make sure this bill is the best it can be. I do not know the fate of those amendments, but we will be going on the record very strongly.

AMENDMENT NO. 2025

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 2025:

At the appropriate place, insert the following:

TITLE . FIREFIGHTERS MEDICAL MONITORING ACT

SEC. 1. SHORT TITLE.

This Title shall be referred to as the ''Firefighters Medical Monitoring Act of 2003''.

SECTION 2. MONITORING OF FIREFIGHTERS IN DISASTER AREAS.

(a) IN GENERAL.—The National Institute for Occupational Safety and Health shall monitor the long-term medical health of those firefighters who fought fires in any area declared a disaster area by the Federal Government.

(b) HEALTH MONITORING.—The long-term health monitoring referred to in subsection (a) shall include, but not be limited to, pulmonary illness, neurological damage, and cardiovascular damage, and shall utilize the medical expertise in the local areas affected.

(c) AUTHORIZATION.—To carry out this Title, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2004 through 2008.

Mrs. BOXER. Mr. President, I thank very much the clerk for reading the amendment. It is a very straightforward amendment. It basically recognizes the fact that our firefighters are our heroes. We certainly learned that. Every American learned that after 9/11. We certainly learned that.

Their health has been affected and impacted. We learned we need to do more to monitor their health. Right now, we have 12,000 brave firefighters frantically working with the California Department of Forestry, the U.S. Forest Service, the California Highway Patrol, the Red Cross, and FEMA to contain these fires in terrible conditions.

Firefighters are not only from California, but they are from Nevada and Arizona. Other help is on the way from other States.

I want to show you a photo of some of the conditions these firefighters are working in at this point.

This is the Simi Valley, where you can see the firefighters, how strong they are, and yet how they look so small in front of this unbelievable blaze they are trying to contain.

I will show you another picture, another view.

This is in San Diego. You can see the incredible black, deadly smoke here. That is filled with toxins and is right over the hill from where they are standing.

Many of these firefighters are living in fire camps, spending 24 hours a day in proximity to the smoke from the fires. We know smoke from these fires—because it is coming from homes, and there are cars and businesses—contains heavy concentrations of carcinogens and other toxins. The smoke contains fine particulates, carbon monoxide, sulfur, formaldehyde, mercury, and heavy metals and benzene. We also know the accumulation of carbon dioxide can lead to progressive heart problems, to brain dysfunction, and may ultimately lead to coma and death.

These are the heroes. These are the heroes. I would hope we would vote 100 to nothing in favor of this amendment.

I can't imagine an argument against it. Numerous studies have shown that the higher the particulate matter, the greater the number of emergency room visits and premature deaths. Why do I put it on this bill? Because the purpose of this bill is to reduce the likelihood we will have these kinds of fires. But if we do, we have to recognize it.

By the way, even with the bill, we may well have fires in the future. We know health monitoring can identify adverse long-term health consequences caused by prolonged exposure to smoke, leading to early detection and better treatment. Those who are the most in danger are those who are exposed the most; that is, these brave firefighters who are working around the clock to contain the fires.

My amendment, again, is quite simple. It directs the National Institute for Occupational Safety and Health to work with the medical expertise in local areas to monitor the long-term health effects on firefighters who fight fires in disaster areas.

Mr. WYDEN. Will the Senator yield?

Mrs. BOXER. I am happy to yield.

Mr. WYDEN. I think what the Senator is doing is very constructive. On the forestry subcommittee, we have heard of a myriad of health concerns which seem to me, as much as anything you are addressing, a first responder issue. These are first responders who are working in a very significant area where there are health concerns—in the forestry area. It is important from a forestry standpoint and from a first responder standpoint. I am very hopeful—I see the chairman of the full committee in the Chamber as well—that we can work this out. Given the crisis right now in your State, I want to see this adopted.

Mrs. BOXER. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I think this amendment is a constructive addition to the bill. I am prepared to recommend that the Senate approve it.

Mrs. BOXER. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, I send a second amendment to the desk and ask for its immediate consideration.

Mr. COCHRAN. Mr. President, what is the regular order—a vote on the amendment?

The PRESIDING OFFICER. The regular order is a vote on the amendment, unless the pending amendment is set aside.

Mrs. BOXER. If the Senator will yield, I understood that you—and maybe I was incorrect—and Senator REID had agreed we would vote for both amendments at 5:15. I believe that was the order.

Mr. COCHRAN. If that is the order, that is fine with me. I just assumed we

were taking amendments as they were offered and disposing of them. I was not aware there was another amendment pending besides the Boxer amendment that had just been offered.

The PRESIDING OFFICER. There was no request for unanimous consent and thus no order in place.

Mrs. BOXER. Mr. President, whatever Senator COCHRAN would like to do is fine. I need about 3 minutes on my second amendment, and then I will be done. The hope was, perhaps to help move it along, we would vote on each of these back to back at a time certain that Senator COCHRAN chooses.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Without objection, it is so ordered.

AMENDMENT NO. 2026

Mrs. BOXER. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 2026.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

TITLE . DISASTER AIR QUALITY MONITORING ACT

SECTION. 1. SHORT TITLE.

This Title shall be referred to as the ''Disaster Air Quality Monitoring Act of 2003''.

SEC. 2. MONITORING OF AIR QUALITY IN DISASTER AREAS.

(1) IN GENERAL.—No later than six (6) months after the enactment of this legislation, the Environmental Protection Agency shall provide each of its regional offices a mobile air pollution monitoring network to monitor the emissions of hazardous air pollutants in areas declared a disaster as referred to in subsection (b), and publish such information on a daily basis on its web site and in other forums, until such time as the Environmental Protection Agency has determined that the danger has subsided.

(b) The areas referred to in subsection (a) are those areas declared a disaster area by the Federal Government.

(c) The monitoring referred to in subsection (a) shall include the continuous and spontaneous monitoring of hazardous air pollutants, as defined in the Public Law 95–95 section 112(b).

(d) AUTHORIZATION.—To carry out this Title, there are authorized to be appropriated $8,000,000.

Mrs. BOXER. Mr. President, this goes to the quality of the air. We have learned so much after what happened on 9/11. When we have this type of a fire, if we could look at this smoke here—I have another picture to show. Look at this black smoke just headed right toward these homes. We know there are pollutants we don't really monitor on a daily basis that are getting into people's lungs. I will mention some of these: Benzene, toluene, formaldehyde, asbestos, ethylene, glycol. Those are just a few.

The effects of these could be devastating: Premature death, cardiovascular illness, neurological disorder, respiratory problems, and cancer. One atmospheric scientist described it in the L.A. Times this way:

When they burn, these homes and businesses are mini toxic waste dumps.

This is the quality of the air we are seeing here. In San Diego, every single school has been closed because it is too dangerous for the children to go outside their homes. They are telling the elderly to stay inside with their windows and doors closed. We know the elderly and the children are the most vulnerable to the effects of pollution.

I believe we must ensure that the public knows which pollutants they are being exposed to. Today they would not know. My amendment will solve that problem. My amendment will require the EPA to provide each of its regional offices a mobile air pollution monitoring network to go into these areas in the event of a catastrophe and monitor toxic emissions on a continuous and spontaneous basis. The amendment will require this to be done within 6 months. We should begin doing it immediately. We authorized the funding—it isn't much, $8 million—to carry this out.

In short, my amendment assures that we will have the ability to monitor emissions of these hazardous air pollutants in the event of a disaster and give the public the information it needs because if they have a child, a sick grandma, someone who has cancer or heart disease, they need to know to keep them in.

I ask for the yeas and nays on my amendment and yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The yeas and nays are ordered.

Mrs. BOXER. Mr. President, I ask unanimous consent that the firefighter amendment No. 2025 be voted on first.

The PRESIDING OFFICER. Without objection, it is so ordered.

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.

Mr. COCHRAN. 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. COCHRAN. What is the regular order?

VOTE ON AMENDMENT NO. 2025

The PRESIDING OFFICER. The regular order is voting on the two pending amendments.

The question is on agreeing to amendment No. 2025. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KENNEDY), 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 ''yea.''

The PRESIDING OFFICER (Ms. COLLINS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—94

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Boxer	Graham (FL)	Pryor
Breaux	Graham (SC)	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kohl	Stabenow
Conrad	Kyl	Stevens
Cornyn	Landrieu	Sununu
Corzine	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Voinovich
Daschle	Lieberman	Warner
Dayton	Lincoln	Wyden
DeWine	Lott	
Dodd	Lugar	

NAYS—3

Allard	Burns	Enzi

NOT VOTING—3

Edwards	Kennedy	Kerry

The amendment (No. 2025) was agreed to.

Mr. COCHRAN. Madam President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2026

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 2026, on which the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Texas (Mr. CORNYN) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KENNEDY), 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 ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 17, as follows:

[Rollcall Vote No. 418 Leg.]

YEAS—78

Akaka	Dodd	McCain
Alexander	Dole	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Graham (FL)	Pryor
Boxer	Grassley	Reed
Breaux	Harkin	Reid
Byrd	Hatch	Rockefeller
Campbell	Hollings	Santorum
Cantwell	Hutchison	Sarbanes
Carper	Inouye	Schumer
Chafee	Jeffords	Sessions
Chambliss	Johnson	Shelby
Clinton	Kohl	Smith
Cochran	Landrieu	Snowe
Coleman	Lautenberg	Specter
Collins	Leahy	Stabenow
Conrad	Levin	Stevens
Corzine	Lieberman	Talent
Daschle	Lincoln	Voinovich
Dayton	Lott	Warner
DeWine	Lugar	Wyden

NAYS—17

Allard	Enzi	Kyl
Brownback	Frist	Nickles
Bunning	Graham (SC)	Roberts
Craig	Gregg	Sununu
Crapo	Hagel	Thomas
Domenici	Inhofe	

NOT VOTING—5

Burns	Edwards	Kerry
Cornyn	Kennedy	

The amendment (No. 2026) was agreed to.

Mr. COCHRAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I ask unanimous consent that a copy of a letter addressed to the two leaders from a number of sports organizations and conservation organizations regarding the adoption of the compromise amendment to the Healthy Forests Restoration Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN SPORTFISHING ASSOCIATION; BOONE AND CROCKETT CLUB; CONGRESSIONAL SPORTSMEN'S FOUNDATION; DUCKS UNLIMITED; FOUNDATION FOR NORTH AMERICAN WILD SHEEP; INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES; MISSISSIPPI RIVER TRUST; NATIONAL RIFLE ASSOCIATION; NATIONAL WILD TURKEY FEDERATION; NEW ENGLAND FORESTRY FOUNDATION; ROCKY MOUNTAIN ELK FOUNDATION; RUFFED GROUSE SOCIETY; SAFARI CLUB INTERNATIONAL; TEXAS WILDLIFE ASSOCIATION; THE CARBON FUND; U.S. SPORTSMEN'S ALLIANCE; AND WILDLIFE MANAGEMENT INSTITUTE.

October 29, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. TOM DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR FRIST AND SENATOR DASCHLE: The organizations listed above represent hunters, anglers, natural resource professionals and others that share a strong interest in traditional conservation values and America's fish and wildlife resources. We appreciate Senate deliberations to date on legislation to enhance the health of our nation's forests and associated fish and wildlife resources. We support the bipartisan compromise amendment to the Healthy Forests Restoration Act (H.R. 1904).

A lack of active forest management has contributed significantly to unhealthy conditions on many of our nation's public and private forestlands. The unnaturally high risk of catastrophic wildfires and large-scale insect and disease outbreaks place rural communities at risk and seriously threaten watersheds and fish and wildlife habitats.

Again, we urge the Senate to pass the compromise amendment to H.R. 1904. Another Congress must not be allowed to adjourn without action on proposals to facilitate forest health restoration.

Thank you for your time.

Mr. COCHRAN. Madam President, this letter, and many others like it, indicates overwhelming support around the country for the compromise we adopted today.

We made good progress in dealing with the bill. Tomorrow we will have another opportunity to consider amendments. I ask all Senators who have amendments to offer to this bill to please let us know about the amendments. Give us copies tonight so we can look at them and be prepared to act expeditiously on the amendments so we can finish this bill tomorrow.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, very briefly, I support Chairman COCHRAN in his request. We have been working on this legislation, in effect, for more than 4 years. It is now particularly timely, obviously, because of the events in California.

Many of the amendments, at least those we have been told about, are coming from my side of the aisle. I ask colleagues—I know Senators have strong feelings on this—if they could present them to the staffs tonight—Senator COCHRAN's staff, Senator HARKIN's staff. Myself and others are available to work through the evening with Senators who have amendments because we very much would like to finish it tonight.

I urge my colleagues on both sides to heed what the chairman has said: If possible, get it to us tonight.

I thank you and yield the floor.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. FRIST. Madam President, I ask unanimous consent that following my remarks, and another unanimous consent request by my colleague from Kentucky, that we then proceed to the consideration of S. 139, as provided under the previous order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, it is my understanding Senator FRIST and Senator DASCHLE have agreed there would be 3 hours of debate on that matter tonight and 2 hours tomorrow, so I would ask the leader to modify his request accordingly.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, first of all, let me make a couple comments about tonight's and tomorrow's schedule to make it clear.

First of all, the understanding is 3 hours tonight on the climate change bill and then 2 hours in the morning. To put everything in perspective, because we are dealing with about four different issues now on the floor of the Senate—it has worked very well, and I appreciate the consideration and cooperation of everybody, because to some it might look confusing in terms of the order and the sequencing of what we are doing. We made huge progress today on the Healthy Forests legislation we have been working on now for the last 6 hours. The managers have done a superb job. We have traction. We have had a number of amendments, and we will continue on that later tomorrow.

We will have no more votes tonight. We will move, as I just mentioned, to the climate change bill, with the 3 hours tonight, 2 hours tomorrow.

Tomorrow we will have debate and then an early cloture vote on the Pickering nomination at about 10 o'clock tomorrow morning.

We will then resume the climate change bill for 2 hours.

Then we will return to the Healthy Forests legislation. Once we return to the Healthy Forests bill, I expect we will be able to finish that bill.

Following that—Members can refer to the unanimous consent request by my colleague—the plan will be to return at that point in time to foreign operations that we will be able to complete at that juncture. That is the general layout of tonight and tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Before the majority leader goes to the next item, it is going to be extremely difficult to finish this most important bill tomorrow. Senator WYDEN has worked so hard on this with others. Senator BOXER, Senator FEINSTEIN, a number of other people on our side of the aisle have worked very hard. We are going to send out a hotline in the morning to find out what amendments are around. We already have some knowledge of the amendments, but it is going to take a lot of cooperation and a lot of people cutting down speeches tomorrow if we are going to finish this bill tomorrow night, which is the desire of the two leaders.

The PRESIDING OFFICER. The Senator from Kentucky.

UNANIMOUS CONSENT AGREEMENT—H.R. 2800

Mr. MCCONNELL. Mr. President, I am pleased to announce to our colleagues and obviously the leader that we have reached an agreement that will allow us to wrap up the foreign operations bill in relatively short order in the next day or two. I am about to propound a unanimous consent agreement that has been agreed to by the other side.

I ask unanimous consent that the only first-degree amendments remaining in order to the Foreign Operations bill be the following, and that they be subject to second-degrees which are relevant to the first: DeWine No. 1966; Feinstein No. 1977; McConnell No. 1970; one McConnell technical, and two McConnell relevants; a Frist relevant; Allard-Feingold-Leahy, Indonesia; Durbin on AIDS; Bingaman on AIDS; two Leahy relevant; Daschle relevant; McConnell-Leahy cleared managers' amendment.

I further ask unanimous consent that following the disposition of the above listed amendments, the bill be read a third time and the Senate proceed to a vote on passage of the bill with no intervening action or debate. Further, I ask unanimous consent that following passage of the bill, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, which will consist of the subcommittee plus Senator STEVENS and Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. I yield the floor.

CLIMATE STEWARDSHIP ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Committee on Environment and Public Works is discharged from further consideration of S. 139, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 139) to provide for a program of scientific research on abrupt bankrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that could be used interchangeably with passenger vehicle fuel economy standard credits, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances.

Thereupon, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding there are 3 hours tonight equally divided, which would be an hour and a half for each side. Because of something that happened today in Colorado, I yield up to 7 minutes of our time to the Senator from Colorado, Mr. ALLARD.

The PRESIDING OFFICER. The Senator from Colorado.

FIRES IN COLORADO

Mr. ALLARD. Mr. President, I thank the Senator from Oklahoma for yielding.

Today in Colorado we had two fires erupt in the State. One was a grassland fire that probably won't amount to much. The other is a very serious fire that happened north and west of Boulder and Jamestown. We have a school that has been evacuated; 300 people have been evacuated. There is an educational camp in the area that has been evacuated. The reason I bring this to the attention of the Senate at this particular point in time is because Colorado is one of those areas in the western part of the United States where we have a forest/urban interface. That is what the Forest Health Restoration Act is all about, trying to provide a program where we can begin to apply the principles of forest health.

Along the Front Range of Colorado, running all the way from Colorado Springs all the way up into Fort Collins, including Boulder, where this fire has broken out, there are a lot of homes being built into the forest. Of course, if you don't practice good forest health, then they become vulnerable to fires that could erupt.

The significant thing about what is happening today is this is not the fire season for Colorado. The fire season occurs in September, perhaps the first part of September, August, and July. Here we are, just 3 days from the first of November, and we have a fire that is breaking out with serious consequences in Colorado.

This again points out the need for us to move forward with this particular piece of legislation. We need to be addressing this problem immediately in areas such as what we are seeing here in the State of Colorado.

Last year during the peak of the Hayman Fire, the Front Range of the Rocky Mountains was covered in a thick blanket of smoke and ash that blocked visibility and dropped ash on surrounding towns and cities, creating a winter-like scene in the midst of a Colorado June. The Hayman Fire was the largest in Colorado history and cost $40 million and counting. It burned a little over 137,000 acres, destroyed 133 homes, and 466 outbuildings. The fire burned for 30 days. The Colorado State Forest Service has advised that it will take up to 150 years for the forest itself to be reestablished.

Some people ask, Why does it take so long? We are in a semi-arid area. Vegetation does not grow back rapidly. During the Hayman Fire, 142 subdivisions were evacuated along with 85,000 people.

Wildfires present a major cause of pollution, triggering severe asthma-related breathing problems and commonly causing death. Wildfires are also a major source of pollution. If we take 1 day out of the Hayman Fire, on June 10, 2002, the CO_2 gas emissions from the Hayman Fire surpassed the CO_2 emissions from all passenger cars operating in the United States on that same day. So this problem with a lot of undergrowth in the forests and trees being infested with beetles and a lot of dead and dying timber has made our forests extremely vulnerable in the forest/urban interface area.

Federal land management procedures are very complex. They should not be so complex that they prevent timely action to address ecological crises on public lands. Forest Service officials have estimated that planning an assessment consumes 40 percent of their time at the national forest level, costing more than $250 million per year. Although much of this work is important, the officials estimate that improving administrative procedures may allow agencies to redirect up to $100 million a year from unnecessary planning to actual forest health restoration where it will improve the ecosystem and protect local communities from catastrophic fires which we see erupting today in Boulder County.

The Front Range in Colorado also depends on the mountains to provide drinking water and water for gardens and children. But devastating fires threaten and destroy watersheds that yield this water. Catastrophic blazes consume organic matter in the littler layer of the soil and create a hard pan surface that impedes water penetration.

When water flows over this hydrophobic layer, it carries debris, mud, and causes soil loss, clogging municipal water treatment facilities, affecting water quality, flavoring water with ash, and costing millions to rehabilitate. This is the problem we face today from the Hayman Fire which occurred just a year ago.

In 2002, there were over 88,000 fires that burned 7 million acres. Thousands of structures were burned: 835 primary residences, 46 commercial buildings, and 1,500 outbuildings. The 2002 estimated suppression costs hover somewhere around $1.6 billion. These unnaturally extreme fires are just one consequence of deteriorating forests and range health that now affects more

than 190 million acres of public land, an area twice the size of California.

Wildfires destroyed wildlife and crippled watersheds. The Hayman fire occurred in the Cheesman Reservoir area, a primary source of drinking water for the city of Denver. Costs of the Cheesman reclamation have totaled nearly $5.5 million, with the U.S. Natural Resources Conservation Service and the EPA reimbursing Denver Water approximately $2.8 million of that amount.

During the Buffalo Creek fire, 600,000 cubic yards of sediment went into Denver Water's Strontia Springs Reservoir.

The fact is, there is too much paperwork and analysis and it is killing our forests. The Forest Service recently testified that it had to go through an 800-step decisionmaking process to complete the Upper South Platte restoration project, which took nearly 3 years to complete, and the fire that we see erupting today in northwest Boulder is in the Platte River drainage basin. Unfortunately, the bureaucratic process wasn't complete until a large wildfire ravaged the landscape set to be treated, plundering homes and an important watershed and forcing a number of endangered species to the edge of regional extinction.

The Healthy Forest Restoration Act is a comprehensive plan focused on giving Federal land managers and their stakeholders and partners the tools to respond to this growing forest health crisis. The legislation directs the timely implementation of scientifically supported management activities to protect the health and vibrancy of Federal forest ecosystems, as well as the communities and private lands that surround them.

This is why I ask Members of the Senate to join me in supporting the Forest Health Restoration Act.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 2028

Mr. LIEBERMAN. Mr. President, I have an amendment on behalf of the Senator from Arizona, Mr. MCCAIN, myself, and several other Senators, which I send to the desk at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, Ms. SNOWE, Mrs. FEINSTEIN, Mr. CHAFEE, Mr. DURBIN, Mr. AKAKA, Mrs. MURRAY, Mr. LAUTENBERG, Mr. EDWARDS, Mr. BIDEN, Mr. CARPER, Mr. NELSON of Florida, Mr. CORZINE, and Ms. CANTWELL, proposes an amendment numbered 2028.

Mr. LIEBERMAN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. LIEBERMAN. Mr. President, I am very proud to speak on behalf of this amendment, which I am delighted to cosponsor with my good friend and colleague from Arizona, Senator MCCAIN. We have worked on this for a long time. We have worked on it with environmentalists, leaders in the business community, thinkers about this problem, and public health officials, and with just plain citizens who are worried about global warming.

Global warming is one of the great challenges of our time. It challenges us in many ways. Greenhouse gas emissions from the burning of fossil fuels threaten our environment, of course, but they also threaten our economy and our public health. They also represent a challenge to political leadership, which is whether we are going to be prepared to look at the science, to face the facts, and to do something about a problem that is appearing but its most difficult, and potentially devastating, consequences are yet over the horizon. Should we continue to allow unabated our current rate of greenhouse gas pollution, we threaten to disrupt the delicate ecological balance on which our lives and our livelihoods depend.

Global warming is not just a global challenge; it is also a very local one, impacting lives of Americans in critical and potentially disastrous ways. Every family has reason to fear the effects of global warming. Scientists predict that rising temperatures and rising sea levels through global warming will lead to damaged water supplies, increased flooding, depleted fisheries, sunken wetlands, devastating droughts, intensified forest fires.

The parched conditions that are contributing to the ravaging fires raging now in southern California could become more widespread if the Earth's temperature increases. Over the long term, in a much more personal way, global warming will spell higher energy bills, increased insurance premiums, and lost jobs.

I know that over the course of the debate this evening and tomorrow several of our colleagues will speak to the local physical and biological impacts of global warming. I want to tell one story that I heard about a year ago, which made this all real to me. It comes from the Native American population of Alaska and northern Canada.

In the past few years, a robin appeared in one of the Native American villages in Alaska. The elders there, despite a very intimate awareness of their 10,000-year-old language, did not know what to call the bird. There is no word for robin in their language. Robins, by virtue of the climate of that area, for thousands of years preceding, felt—if I can put it this way—unwelcome there.

The second example comes from Tanana in Alaska, which has an annual lottery to determine when a tripod placed on the frozen Tanana River would break through the ice. Over the past 50 years, the breakthrough has continued to occur earlier and earlier.

So it is not only in the language of science and statistics that climate change and global warming is occurring, it is in the language of everyday life.

The American public clearly understands this and, in fact, there is a gap between the public and our political leadership that Senator MCCAIN and I hope we can close with this amendment. According to a recent Zogby poll, 75 percent of Americans support this legislation, this amendment, we are debating this evening.

My colleagues now have to choose between meeting the public's support for action, demand for action, or siding with the minority who would ignore the scientific consensus and delay action on this critical problem.

Meeting this monumental challenge and addressing this growing environmental threat demands strong leadership. I am afraid that, to date, such leadership has been lacking in the current administration. Today's Senate debate represents the first of its kind since 1998, which testifies, I am afraid, to a lack of leadership here. This debate provides us with an excellent opportunity to take action before it costs us so much more to deal with the consequences of inaction.

I must say that even more dramatic has been the Bush administration's failure of responsible leadership on global warming. President Bush and his Environmental Protection Agency have not only offered no meaningful proposals to deal with global warming, they have tried to deny the very existence of the problem.

Last summer the White House called for yet another study. This time it focused on whether global warming is caused by human behavior. Let me speak directly. That call is a shameless stalling tactic. As the New Orleans Times-Picayune described, ''It calls for further investigation of what the scientific community already widely accepts.'' In fact, as Don Kennedy, chief editor of the International Journal of Science, argued:

Consensus as strong as the one that has developed around this topic [climate change] is rare in science. . . . There is little room for doubt about the seriousness of the problem the world faces, and other nations, including most of our trading partners in the Organization for Economic Cooperation and Development, understand that.

Yet in the face of these facts, President Bush has given us only a call to action, a call for more study and not action on global warming. I cannot resist saying this President has fiddled while the globe continues to warm.

The plan the administration has put out would allow emissions of global warming pollutants to continue to grow at exactly the same alarming rate as they have grown over the past decade. Earlier this month, the General Accounting Office found that the plan of the administration would do nothing to reduce our emissions growth. In fact, the GAO was even unable to discern the extent to which the administration's identified methods and tools

would contribute to reducing emissions. They found that the administration was not going to evaluate whether they had made progress toward their goals until 2012. Too late.

This deny-and-delay approach to meeting the real threat of global warming is no longer acceptable. It is an abdication of leadership—environmental leadership, public health leadership, economic leadership, international diplomatic leadership.

Senator MCCAIN and I offer our bill, the Climate Stewardship Act, to confront this growing threat in a systematic and serious way. It is patterned after the highly successful market-based acid rain program of the Clean Air Act.

The amendment was crafted in close consultation with industry leaders and, I am so pleased to say, enjoys strong support of many of them and leaders within the environmental community. It represents the most serious and balanced attempt at solving the crisis before us, and it does so by harnessing market forces and directing them to new economic opportunities in the future.

Our bill limits emissions of global warming pollutants by electric utilities, major industrial and commercial entities, and refiners of transportation fuels. Those sectors represent about 85 percent of U.S. emissions of global warming pollutants.

The amendment does not apply to farmers, individual residences, or to automobile manufacturers for the cars they sell. Because our current emissions are now at 2000 levels from a practical standpoint, our legislation simply holds them at those current levels in some ways, a modest goal—but a very significant step forward in American responsibility for the global problem of global warming.

That is the full extent of national action that our amendment would require. More modest, yes, than the cuts envisioned by the Kyoto protocol, but a significant step forward, one that I think will not only get us on the road to protecting the public's health and the great environmental treasures of the United States of America but will reestablish our credibility and responsibility in the world. As the largest emitter of greenhouse gases, we will show that we are accepting our responsibility to be part of the global solution to this global problem.

Our amendment achieves these significant reductions while embracing free market principles. By setting reasonable caps on emissions and permitting industry to trade in pollution allowance, we create a new market for reducing greenhouse gases. In this way, we hope and believe our amendment will change the fundamental terms of the debate because for too long the national dialog on global warming has seemed to be deadlocked, pitting business leaders on one side against environmentalists on the other in a zero sum struggle. It ought not to be. We ought to find common ground, and that is what this amendment attempts to do.

The debate for too long has itself been overheated with acrimony and polluted with misinformation. Our hope is that this amendment will break through both of those obstacles. Environmental protection and economic growth are not mutually exclusive; they are mutually reinforcing over the long run.

Measured steps to curb global warming in a business-friendly way promise to not only save us from environmental degradation but to open new opportunities and to spur innovative new technologies for American business to seize.

In a July 25 letter this year, the Business Council for Sustainable Energy endorsed the concept that market-based climate policies can reduce gas emissions while promoting technology-based solutions, reduce energy dependence, and bolster the competitiveness of U.S. industry.

In a July 18 letter to my office, a group called Environmental Entrepreneurs, which represents over $20 billion in investment capital, wrote that the bill will stimulate economic growth and give the United States a competitive edge in bringing these products to market.

Finally, a letter of July 24 of this year from several of our Nation's most prominent investors encouraging the efforts Senator MCCAIN, the other cosponsors, and I are making says:

By employing strict goals and flexible means, we expect your proposal will unleash the power of competition and spur innovation to protect the environment. A healthy economy and a healthy environment are not mutually exclusive; they go hand in hand.

I ask unanimous consent that all three of those letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BUSINESS COUNCIL FOR SUSTAINABLE ENERGY,
Washington, DC, July 25, 2003.

DEAR SENATOR: As the Senate prepares to consider several global warming amendments that may be offered to the Energy Policy Act (S. 14), the Business Council for Sustainable Energy would like to offer another industry perspective.

Some information has been circulated recently claiming that any substantive program to reduce greenhouse gas emissions in the U.S. would cause widespread harm to our economy. The analysis that is being circulated does not reflect any of the proposals that are pending before Congress. Instead, it is based on a widely criticized analysis by the Wharton Econometrics Forecasting Associates (WEFA) that was conducted five years ago.

The WEFA analysis is a disservice not only to Senators who need relevant information to make policy decisions, but also to industry coalitions like ours that recognize the value of responsible and responsive policy design.

Senators McCain and Lieberman have developed legislation (S. 139) that underscores the value of flexible emissions trading programs that maximize innovation and minimize costs.

The analysis being circulated in no way reflects the approach proposed by S. 139. Key differences include:

Moderate emission reduction targets with greater lead time to industry. S. 139 reduces U.S. emissions to 1990 levels by 2016, which equates to about a one percent emissions reduction annually over the next 13 years—a more modest reduction occurring over a longer period of time.

Flexible emissions trading. The McCain-Lieberman bill utilizes market-based mechanisms within a cap-and-trade program that encourages innovation through the use of efficient, cost-effective emissions reduction strategies. The WEFA analysis assumes that a carbon tax is imposed on industry.

Trading of non-CO_2 gases. The McCain-Lieberman bill incorporates reductions in other greenhouse gas (beyond CO_2) in the trading program, a design feature that has been shown to significantly reduce the cost of compliance. The WEFA analysis was limited to carbon dioxide.

Credits to farmers for carbon sequestration. The McCain-Lieberman bill allows emitters to offset their emissions by sequestering carbon through land use practices. The WEFA analysis fails to account for these inexpensive offsets.

Credits for international projects. The McCain-Lieberman bill allows companies to meet a portion of their obligation through global emission reduction projects. The WEFA analysis once again ignores this opportunity.

The model used by WEFA five years ago was based on assumptions that U.S. industry would fail to deliver more efficient and cleaner technologies over time in response to policy incentives. A market-based program such as that envisioned in S. 139 would provide incentives for industry to innovate, just as with the Clean Air Act's acid rain program, which pioneered the emissions trading approach and delivered environmental results as much as 90 percent less than economists had projected.

The Council does not stand alone in our belief that market-based climate policies such as emissions trading can benefit the economy. More than 2,500 economists, including eight Nobel laureates, issued a statement in 1997 that read in part:

''Economic studies have found that there are many potential policies to reduce greenhouse-gas emissions for which the total benefits outweigh the total costs. For the United States in particular, sound economic analysis shows that there are policy options that would slow climate change without harming American living standards, and these measures may in fact improve U.S. productivity in the longer run.''

While the economists' statement is not an endorsement of any policy before Congress today, it speaks to the importance of a more thoughtful dialogue about what the nation should be doing.

Properly constructed, global warming policies that incorporate market mechanisms can reduce greenhouse gas emissions while promoting technology-based solutions, reduce energy dependence and bolster the competitiveness of U.S. industry.

With best wishes,

MICHAEL L. MARVIN,
President.

ENVIRONMENTAL ENTREPRENEURS,
San Francisco, CA, July 18, 2003.

Hon. JOSEPH LIEBERMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.
Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN AND SENATOR MCCAIN: We are writing as members and supporters of Environmental Entrepreneurs (E2) in support of your proposal to create a binding, market-based program to limit global warming emission from U.S. industry. E2 is an organization of business and professional leaders who promote good environmental policy that supports economic growth. The economic risks that climate change poses to the U.S. economy are enormous, and E2 believes we must address this issue without further delay.

The first President Bush signed and the Senate ratified the Framework Convention on Climate Change (the ''Rio Climate treaty'') over a decade ago to provide for a worldwide program to manage the manmade emissions that contribute to global warming. Yet, in the time since we ratified the Rio Treaty, the United States, which produces more global warming emissions than any other nation, has not developed a serious program to respond to the threat that global climate change poses to the planet's environmental and economic health. As a result, U.S. emissions of global warming gases have grown steadily and now exceed 7 billion metric tons of CO_2 equivalent gases—a growth of 14% from 1990 levels.

Every year that passes increases the difficulty and cost of averting the threats of environmental and economic disruption posed by climate change. Without a national framework for addressing the issue of global warming, American businesses continue to make long-term capital investments that commit us to ever increasing greenhouse gas emissions. New buildings, transportation systems, and power and industrial plants are being designed and built today without regard for the need to reduce global warming emissions. The large capital outlays are committing us to a future of unacceptable risks to the American economy from global warming.

The threats to our economy from climate change may well include, in some areas, the vitality of American agriculture, the availability of water for consumption and irrigation, and the destruction of recreational resources such as ski resorts, coastal areas and wetlands. E2 considered these risks serious enough in California that we actively campaigned for the passage of the California Clean Cars Bill, or AB1493, which was signed into law last summer and is the first legislation in the country to regulate the amount of CO_2 emissions from passenger vehicles. We want to acknowledge your leadership in supporting this bill and helping Governor Davis to recognize the national, if not global, implication of this kind of policy. We are promoting similar legislation in the state of New York and hope that a groundswell for carbon emissions policy at the state level will convince the federal government of the need to provide national standards.

Your proposal, the ''Climate Stewardship Act of 2003,'' recognizes what we, as business leaders, already know: the engine of American innovation depends on market-based incentives to guide capital investment. Your legislation would: create manageable targets to control the growth in global warming emissions from America's principal emitters and put us on a path to reducing emissions over time; ensure that the reductions occur in an efficient manner by letting businesses decide where to best achieve them; and spawn new business sectors to create the enabling technologies to meet these goals.

The economic benefits inherent in addressing global warming reach far beyond avoiding the risks associated with inaction. The deployment of existing ''climate friendly'' technologies and the development of new ones will result in new markets and create new jobs. Buildings and appliances that waste less energy, transportation systems that meet our needs with reduced global warming emissions, and energy systems that make expanded renewable resources economically viable and offer ways to use fossil energy without releasing carbon dioxide—all these are key to our economic and environmental future. These advances will stimulate economic growth and give the U.S. the competitive edge in bringing these products to market.

The United States should be in the vanguard of this new global market for climate friendly technologies. Our businesses are second to none in developing advanced products when the market conditions reward these investments. A market in limiting global warming emissions is the policy step needed to promote innovation and growth in this sector. We look forward to working with you to implement this program at the earliest possible date.

Sincerely,

BOB EPSTEIN,
Co-Founder, E2.
NICOLE LEDERER,
Co-Founder, E2.

JULY 24, 2003.

Hon. JOSEPH LIEBERMAN,
Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATORS LIEBERMAN AND MCCAIN: As business leaders we recognize that the risks and complexities of climate change are so important that we must work together to meet this challenge. We understand that any response that is sufficient to avert dangerous climate change will be long term, but that the nature of the problem requires that action begin now. We understand that a constructive global or domestic response must be equitable and support economic growth based on free market principles. As business leaders, we know how government policies can help—or hurt—business and the economy. Good policies set clear goals and leave businesses free to decide how to meet those goals at lowest cost. The policies you have suggested be included in the Energy bill seem to be both serious in their environmental goals and prudent in using market forces to achieve them.

By employing strict goals and flexible means, we expect your proposal will unleash the power of competition and spur innovation to protect the environment. A healthy economy and a healthy environment are not mutually exclusive; they go hand in hand. American business has the ingenuity and know-how to solve the problem of global warming while continuing to prosper. Indeed, many of our colleagues already have stepped forward to pledge to reduce their companies' greenhouse gas emissions.

We recognize that there is still debate about the levels of greenhouse gas reductions necessary to stabilize the climate and protect the U.S. economy. Several things are clear. Reductions must begin promptly. Voluntary efforts abone won't do the job. And finally, any mandatory restrictions must employ market incentives. We congratulate you for recognizing these needs and for your efforts to see that the Senate addresses them.

Sincerely,

John Doerr; Jon Lovelace; Lewis S. Ranieri; Julian H. Robertson, Jr.; John H.T. Wilson.

Mr. LIEBERMAN. Mr. President, corporate America, fortunately, has already given us some models of companies that are dealing with global warming and, I believe, profiting from doing so. Companies such as Alcoa, British Petroleum, DuPont, Eastman Kodak, IBM, Intel, Johnson & Johnson, and Nike have all accepted targets for greenhouse gas pollution reduction that meet or exceed this amendment's requirements. These and other companies have cut their emissions of greenhouse gases not just because they sought to be good environmental citizens, which they are, but because their boards of directors and their senior management are convinced that a proactive stance on climate change makes good business sense.

Perhaps the most compelling examples of that new corporate mindset on global warming come from American Electric Power and Cinergy, the biggest burners of coal by tonnage and percentage in our country. Both companies have now announced enforceable obligations to reduce greenhouse gas emissions to levels that are below what our proposal requires. And Cinergy has said it can make these reductions for no increased cost and with no additional fuel switching.

It is quite remarkable that they say they can make the reductions at no increased cost. But for every BP and DuPont, IBM and Cinergy, there are scores of other enterprises that I fear are inefficient, that are refusing to rise to new environmental standards and curb their greenhouse gas emissions. That is why we must pass this amendment. We must set standards. We must exercise responsible leadership.

I understand that taking action to combat global warming is not without cost, but it is worth the cost. The sacrifice of the Climate Stewardship Act is a minimal sacrifice. The cost of our amendment is reasonable and affordable by any measure and under any economic model employed to date. A recent MIT study estimated that our amendment would annually cost less than $20 per household. That is not a lot to ask for stemming the warming of the planet and all the devastating consequences it could bring.

A second independent study released this summer by the Tellus Institute reaffirms that same conclusion. Tellus, in fact, found that net savings to consumers of $48 billion would be realized by 2020 and household electricity bills would decrease because of reduced energy demand.

Finally, the recent study of the Bush administration's Department of Energy of our entire proposal found similar minimal economic impacts overall, but did find some spikes in natural gas usage at the expense of the coal industry.

We feel very strongly that was a flawed study. Its assumptions only allowed compliance with the program through fuel switching. So the outcome

was preordained. In fact, the Pew Center for Global Climate Change has examined this analysis and believes the study's structure, combined with unrealistic input assumptions, results in unrealistically high cost projections.

Senator MCCAIN and I have worked very hard on this proposal. We have worked hard to achieve common ground on it, both among businesses and industries that are involved in emitting greenhouse gases, environmentalists, citizens, and among Members of the Senate. We are seeking a consensus position that will allow our Nation to move forward to take action on this critical challenge. As a result, we have modified our original bill to drop the second phase of its requirements.

As time goes on, we will look forward to bringing that back up and convincing the Senate to adopt the entire program, but let's deal with the first phase amendment. It does not require or create a significant fuel switching, even according to the administration's own Energy Information Agency, and has a very low economic impact. It is a beginning in dealing with this problem.

The true cost comparison is not between the cost of doing business now versus the cost of new regulations. It is between the cost of action now and the cost of inaction in the future, because the fact is the carbon we emit to the atmosphere today will remain there for a century. Every extra ton of emissions means we are going to need tighter controls. It will be more costly and more difficult to protect the environment and public health later on.

A recent study calculated every ton of pollutants needlessly emitted into our atmosphere costs Americans $160, and we are currently emitting billions of tons each year. Property lost to rising sea levels, cropland lost to drought, revenue lost to dwindling fishing stocks caused by global warming, all represent real costs, not to mention the ultimately immeasurable damage to our health and quality of life.

It is very interesting to follow the judgments of the insurance industry on this question if we want to gauge the cost of inaction. Uncertain about the potential increased liability from severe weather events and other costly side effects of global warming, insurers are now charging higher premiums to businesses and homeowners to cover higher expected costs. SwissRe, North America's leading reinsurer, says that ''global warming is a fact'' which ''has the potential to affect the number and severity of these natural disasters and result in a very significant impact on our business.''

This reinsurance company projects that climate-change-driven natural disasters could cost global financial centers more than $150 billion per year within the next 10 years. Just think of that. We are making a proposal that the MIT study says will cost every American family $20 a year, compared to $150 billion a year within 10 years globally.

Wall Street is also concerned about the future if we fail to act. A number of institutional investors recently joined with several utilities to call for the kind of market-based approach to global warming that is part of our amendment. There is also an opportunity for our American enterprise and innovation to produce the products that will respond to the global warming challenge, and in that sense to be ready to meet the global demand for such products.

According to one reputable estimate I have seen, over the next 20 years, $10 trillion to $20 trillion will be spent globally on new energy technologies. Our Asian and European competitors see this potential and, by complying with Kyoto protocol standards, are adapting their practices to seize that enormous international market.

I want to say a special word about farmers and ranchers under our plan. They will be able to make money by adopting pro-environment practices. That would include increasing carbon levels in their land and selling emission credits to polluters. Rough estimates show that new, more sustainable management practices will sequester approximately one-half ton of carbon per acre for a farmer with a 5,000-acre farm. This would represent thousands of additional dollars a year. Many of those practices are better for the long-term health of our farms but, of course, can be of great benefit to cash-strapped farmers.

Global warming is, of course, about more than the numbers about which I have talked. It is about our values. Do we take action to protect our children and grandchildren from having to bear the full cost and health risks and life changes from the pollution we are generating today or do we, as leaders of the world's largest emitter of greenhouse gases, duck our responsibility and let the next generation take it?

I am particularly pleased by the strong support Senator MCCAIN and I have received from a broad and diverse coalition of religious organizations that affirms the moral imperative for action now on global warming. I cite the National Religious Partnership for the Environment, representing an alliance of faith groups, including the United States Conference of Catholic Bishops, the National Council of Churches of Christ, the Coalition on the Environment and Jewish Life, and the Evangelical Environmental Network.

I am reminded of the words from Scripture that the Earth is the Lord's and the fullness thereof, which is surely the truth and reminds us we are only visitors. We do not own the Earth. We are blessed to live on it for some period of time. With that time comes a responsibility to be good stewards of the Earth. I always remember the words from the story of creation, Adam and Eve, where it says in the Bible they were put there to work and guard the garden. In a very direct sense, that responsibility to work, enjoy, and develop is combined with a responsibility that we have to guard the garden, guard the Earth.

We have failed in that responsibility. This amendment is an attempt to accept that responsibility and do something about it.

This is an historic debate. It is a debate I believe our children and grandchildren and perhaps historians will look back on and ask, as the votes are counted, did the Senate of the United States rise to a challenge almost everyone sees is coming or did we wait until the consequences, the effects of global warming, were so serious that it was too late? It was certainly too late to deal with those consequences without drastic effects on our environment, on our health, on our economy, and on the way we live.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. LIEBERMAN. I would yield.

Mr. MCCAIN. Is the Senator aware the major attack on this legislation will be related to the validity of the entire issue of climate change?

Mr. LIEBERMAN. I expect that will be true.

Mr. MCCAIN. Will the Senator yield for a further question?

Mr. LIEBERMAN. I will.

Mr. MCCAIN. Is he aware there is widespread agreement on the occurrence of global warming and the human source of the observed and predicted changes? To make a long story short, there was a study conducted in 2001 by the Intergovernmental Panel on Climate Change. A third assessment report represented a collaborative, scientific endeavor involving 700 scientists worldwide, peer-reviewed by another 700 scientists. The Bush administration requested an independent review of the IPCC report by the National Academy of Sciences. Now everybody can shop around for their expert. This is the National Academy of Sciences. The resulting 2001 national research report, which is delegated by the National Academy of Sciences, said the following in their summary, and I will ask my colleague just to comment on this. We need to keep coming back to this and coming back to this and coming back to this during this debate. Again, the National Research Council, an arm of the National Academy of Sciences of the United States of America, says greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise.

Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities, but we cannot rule out that a significant part of these changes is also a reflection of natural variability.

The point is we are going to hear—in fact, in the course of debate we will hear of a couple of scientists whose views were misinterpreted by the Senator from Oklahoma and by the Republican Policy Committee. We have their

rebuttals and we will be going into those. They state—not I state—that their views were completely distorted. The fact is, the overwhelming body of scientific opinion in America and the world believes that human activity is causing climate change in the world, and that is an irrefutable fact.

The opponents of this can shop around for the scientists of their choice, but the overwhelming majority of scientists say this and every year that evidence becomes more compelling and every year it becomes more of a compelling problem because of the manifestations of it. The manifestations of climate change are occurring, as we see on the west coast of the United States of America.

I ask my friend, won't you hear that the emperor has some beautiful clothes on during this debate; that there are some scientists who will refuse to admit this, who will say that pigs fly and up is down and black is white, but the majority opinion is that of the most respected body in America, the National Academy of Sciences, and they are the ones who come forward with the views that are corroborated by thousands of scientists all over America and the world?

I ask my colleague to comment on that.

Mr. LIEBERMAN. Mr. President, I thank my friend from Arizona. He is known globally, I might say, as a straight talker. He is basing that straight talk in this debate on scientific fact that is widely accepted—he is absolutely right—by international panels of scientists, by the independent National Academy of Sciences, and the National Research Panel.

I want to quote again from Don Kennedy, chief editor of the international, very reputable journal, Science. He says:

> Consensus strong as the one that has developed around the topic of climate change is rare in science. There is little room for doubt about the seriousness of the problem the world faces.

I expect, unfortunately, that we will debate the science here. You and I, I know, are prepared to debate the science. But the fact is, we ought to be debating what we are going to do about it. We might argue, and some presumably will argue, that our proposal costs more than the American people are willing to spend. I don't think so. The polls don't show that to be true. People I talk to are ready to be part of solving a problem before it gets out of hand.

Some may say our methods are wrong, although a market-based system, such as the one that worked to deal with acid rain in the Clean Air Act amendments, proposed and signed by the first President Bush, has a pretty good track record.

But let's have that debate. It really takes us back way beyond where the science is to have a debate whether this is a real problem. I say again, to have a debate about what we should do about it, that might get our blood going, but that is a reasonable debate. But to see the administration ask for yet another study, I just can't see that as anything more than a stalling tactic.

That is why I regret to say that this President really is fiddling while the globe is warming. We better do something about it before it gets so serious that we are going to look back and say: Why didn't we act?

This is a chance to have debate, the first debate in 5 years in the Senate Chamber on this critical problem. Let's have a healthy debate. Let's try to find common ground.

Senator MCCAIN and I have worked very hard to reach a consensus. This is not a sharp-edged bill. It is a bill that is progressive and builds toward common ground. And then let's move forward together so we can say to our children and grandchildren: We saved you from a result that we saw coming that many were not willing to do anything about, but we finally got together and did something about it.

I thank my friend from Arizona for his very good questions. I thank him for his principled partnership in this effort, and I look forward to the remainder of the debate.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me just make a couple of comments, and then I will yield to the Senator from Missouri.

I know it is so easy to stand up here and talk about ''the science is irrefutable,'' talk about how different groups are supporting S. 139. I know neither the distinguished Senator from Arizona nor the distinguished Senator from Connecticut would intentionally say something that is not true. However, some of the things they are saying are not true. They are not factual.

A little bit later I am going to be going into detail on this science question. The science that has been reviewed since 1999 is overwhelmingly on the side that global warming, in fact, is not occurring and, if it is occurring, is not a result of manmade anthropogenic gases.

I would also like to say, I will be talking about some of these groups that supposedly are supporting this bill who, in fact, are not supporting this bill. But I am going to save that for a few minutes because we have several Members who will be coming in on our side who will be wanting to address this issue. For that reason, I now yield to the Senator from Missouri 7 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 7 minutes.

Mr. BOND. Mr. President, I thank the chairman of the Environment and Public Works Committee, the committee I believe properly has jurisdiction over this issue, a committee on which I serve and which has debated these issues many times. I thank the Senator from Oklahoma for his leadership, his guidance, and his wisdom on these matters.

Interestingly enough, today I was reading a couple of news articles and it seems the Soviet Union is backing out on the Kyoto Treaty. Russia is now finding that they cannot live up to the commitments that were made in Kyoto, so Russia is bailing out on them. I just read another article that the European Union finds they really can't come up with all of these carbon dioxide reductions that they had promised. Why? Even in a Communist country they begin to realize that government actions have consequences. There are some impacts. These impacts are pretty stark.

Let me address for just a few minutes, for the benefit of my colleagues and those who may happen to listen, some of the practical impacts the passage of the McCain-Lieberman bill would have on our communities and on our families.

I strongly believe this bill will cripple our economy, cripple our communities, and financially cripple many of our struggling families. We can debate the science of climate change here on the floor until we are all blue in the face—and I think we may be headed in that direction. We have heartfelt experts, scientists, and data on both sides of the issue. I happen to believe the causal effect of CO2 emissions and recent changes to our climate is not yet fully proven.

But the real impact, the real point of the McCain-Lieberman bill is, What will it do? That is kind of a practical test. I am from Missouri, the ''show me'' State. What would this bill do? Show me what this bill would do. How much will the McCain-Lieberman bill hurt our economy?

How much will the McCain-Lieberman bill drive up electricity bills for my constituents to pay? How much will the McCain-Lieberman bill raise the price of natural gas which is already going through the ceiling thanks to unwise governmental increases in demand and restrictions on production? How much more will the McCain-Lieberman bill force our families to pay for gasoline? It would be nice if we stopped once before we rushed into a major thing such as this and found out whether the medicine we prescribe was going to make the patient sicker or make the patient well.

I think we all recognize that our economy is just now starting to recover from the doldrums. We are just now starting to turn the corner on job growth. We are heading into a winter when we expect the cost to heat our homes will increase significantly because of previous overreaching congressional actions in the past. Now is not the time to place more burdens on our families and our communities.

As I said, I sit on the Environment and Public Works Committee where we

considered legislation to cut carbon dioxide as part of a multipollutant strategy to cut emissions from electric powerplants. Before that committee, supporters urged caps on carbon dioxide from electric powerplants as a way to fight global climate change. What they didn't want to talk about was the negative impact this measure would have on the everyday lives of our constituents—those who use electric power.

Experts conclude that the legislation under consideration to cut carbon dioxide in electric powerplants would cost the economy over $100 billion. That is one-zero-zero billion dollars.

Experts also estimated that the electricity bills would go up by about 40 percent.

If you are sitting at home and you happen to have an electric bill handy, take it and multiply it by 1.4, see what that number is, and see what impact that would have on your family budget.

I have read heartbreaking stories from families in Kansas City who have to decide between buying food and paying their utility bills. Other families could not buy school clothes because they had to pay higher heating bills. Seniors on fixed incomes often have no way to meet higher utility bills.

I voted against that bill. And Democratic leaders when they controlled the Senate refused to even bring that measure to the floor because they knew what an impact it would have on senior citizens, what an impact it would have on the poor, and why union members who realize it can cost them their jobs object to it. We now have many of the same issues involved in this climate change bill.

The McCain-Lieberman bill would establish mandatory caps for carbon dioxide emissions. Economists and energy experts at the Department of Energy's Energy Information Agency—or EIA—recently concluded that the enactment of the McCain-Lieberman bill would result in a 46-percent increase in electricity prices, a 27-percent increase in the cost of gasoline, and a 54-percent increase in the cost of home heating oil.

Again, if you are at home and happen to have any of your last winter's bills handy, apply those percentages—a 50-percent increase in electricity and heating oil, a 27-percent increase in the cost of gasoline.

The EIA—the Government agency with the experts and the expertise—concluded that McCain-Lieberman would cost millions of Americans jobs. Excuse me. Did I say that right? Yes, I said that right—millions of American jobs. We are having slow job growth in our economy. We are working hard to get jobs back. This bill would cost millions of American jobs. Even if the sponsors dropped the second phase of this bill, it would still cost hundreds of thousands of jobs.

Do we really want to be raising costs on senior citizens, on poor people, and be throwing people out of work?

The EIA further concluded that McCain-Lieberman would cause a cumulative decrease in the gross domestic product of $1.4 trillion. Talk about sucking the wind out of the economic recovery; that baby would be flatter than a flounder.

The effect of this bill would be, first, to send our economy back into recession, then strip the Nation of hundreds of thousands of jobs, and then increase the cost of heating our homes. I, frankly, cannot think of a better combination of ills. That is a trifecta that we obviously cannot afford to undertake.

The most troubling part is that all of this pain would come without any real dent in the worldwide amount of carbon dioxide released into the atmosphere.

McCain-Lieberman suffers from the same inherent flaw of the failed Kyoto Treaty. It imposes absolutely no restrictions on two of the world's worst largest and fastest growing polluters in the world. In case you can't guess who those are, those would be China and India.

Not only do we unfairly punish U.S. communities but we let other countries off the hook and, therefore, have practically no real worldwide impact on carbon dioxide levels.

The Kyoto Treaty was rightfully rejected in advance by a unanimous vote in this body of 95 to zero for a very good reason. On top of all the unfairness of the Kyoto Treaty, we now know the crippling effects McCain-Lieberman would have on the economy, on our communities, on our families, and on job creation in our country.

For me, I cannot see voting to strip American families of hundreds of thousands or millions of jobs. I cannot see why we would be voting to increase electricity prices by 46 percent. I cannot see why we would be voting to increase the cost of home heating oil by 54 percent. That is why I cannot vote for this bill.

I urge my colleagues to think about the practical impact before we vote on this bill. This is a disaster waiting to happen. This would be another congressionally inflicted disaster.

For those reasons, I urge my colleagues to defeat McCain-Lieberman.

The PRESIDING OFFICER. Who yields time?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield myself 2 minutes.

That was a well-written presentation by my colleague from Missouri. Unfortunately, his analysis of the bill is not the bill that is before the Senate. But other than that, it was a pretty convincing case.

Our bill is different from the analysis he provided. In fact, it is significantly different. But even those facts on which we had the previous analysis were incorrect as well. But it was certainly an interesting presentation.

Mr. INHOFE. Mr. President, I have talked to our good friend, my brother, the Senator from Hawaii, and he has graciously agreed to let one of our Members go first before he is recognized.

At this time, I yield to the Senator from Ohio, Mr. VOINOVICH.

Before yielding to Senator VOINOVICH, I was honored to chair the Clean Air Subcommittee prior to the time I chaired the Environment and Public Works Committee. During that time, Senator VOINOVICH was Governor Voinovich. He was the chairman of the Governors Clean Air Committee. I don't believe there is anyone in this Senate who has a better knowledge of air problems or who has higher credentials than the Senator from Ohio.

At this time, I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I thank the Senator from Oklahoma for his kind words. The two of us will try to explain to our colleagues the real meaning of this legislation proposed by Senator LIEBERMAN and Senator MCCAIN.

I rise in opposition to the legislation offered by Senator MCCAIN and Senator LIEBERMAN. This legislation will place a cap on carbon dioxide emissions by requiring all segments of the economy to reduce emissions to 2000 levels by 2010 despite the fact that such a cap would have devastating impacts on our economy, on our manufacturing sector, and on average Americans, and especially on our brothers and sisters, the elderly and the poor.

I have stated time and time again here on the floor that we must recognize that the energy policy and our environmental policies are two sides to the same coin and that the Senate has responsibility to harmonize those policies. We have an obligation in the Senate to ensure that any legislation we consider takes into account its potential impact on our economy, which is in intensive care, particularly in States such as mine. And we have a moral obligation to ensure that we consider a bill's potential impact on the poor and the elderly who must survive on a fixed income and who pay an inordinate amount of their income for energy. They are the forgotten people in this country. We must ensure that we do not pass climate change legislation that will significantly drive up the cost of electricity for those who can least afford it.

Although some science has attributed changes in the climate to atmospheric concentration of carbon, it is clear the science of climate change is far from settled. We need significantly more research on the issue. To accept the statements of supporters of S. 139 at face value is to accept one side of the debate, a very serious debate, among respected scientists and policy experts on both sides of the issue.

I recall the hearings Senator LIEBERMAN had when he was chairman of the Governmental Affairs Committee and two hearings I had. It was interesting to see the difference of opinion among very respected scientists in this country.

My distinguished colleague Senator INHOFE has discussed at length both in the Environment and Public Works Committee and in the Senate the newest information on the issue which is contrary to the views expressed by Senators MCCAIN and LIEBERMAN.

In a recent column, former Secretary of Energy James Schlesinger commented:

. . . despite the certainty many seem to feel about the causes, effects and extent of climate change, we are in fact making only slow progress in our understanding of the underlying science.

I ask unanimous consent the column by Mr. Schlesinger be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 7, 2003]

CLIMATE CHANGE: THE SCIENCE ISN'T SETTLED

(By James Schlesinger)

Despite the certainty many seem to feel about the causes, effects and extent of climate change, we are in fact making only slow progress in our understanding of the underlying science. My old professor at Harvard, the great economist Joseph Schumpeter, used to insist that a principal tool of economic science was history—which served to temper the enthusiasms of the here and now. This must be even more so in climatological science. In recent years the inclination has been to attribute the warming we have lately experienced to a single dominant cause—the increase in greenhouse gases. Yet climate has always been changing—and sometimes the swings have been rapid.

At the time the U.S. Department of Energy was created in 1977, there was widespread concern about the cooling trend that had been observed for the previous quarter-century. After 1940 the temperature, at least in the Northern Hemisphere, had dropped about one-half degree Fahrenheit—and more in the higher latitudes. In 1974 the National Science Board, the governing body of the National Science Foundation, stated: ''During the last 20 to 30 years, world temperature has fallen, irregularly at first but more sharply over the last decade.'' Two years earlier, the board had observed: ''Judging from the record of the past interglacial ages, the present time of high temperatures should be drawing to an end . . . leading into the next glacial age.'' And in 1975 the National Academy of Sciences stated: ''The climates of the earth have always been changing, and they will doubtless continue to do so in the future. How large these future changes will be, and where and how rapidly they will occur, we do not know.''

These statements—just a quarter-century old—should provide us with a dose of humility as we look into the more distant future. A touch of that humility might help temper the current raging controversies over global warming. What has concerned me in recent years is that belief in the greenhouse effect, persuasive as it is, has been transmuted into the dominant forcing mechanism affecting climate change—more or less to the exclusion of other forcing mechanisms. The CO_2/climate-change relationship has hardened into orthodoxy—always a worrisome sign—an orthodoxy that searches out heretics and seeks to punish them.

We are in command of certain essential facts. First, since the start of the 20th century, the mean temperature at the earth's surface has risen about 1 degree Fahrenheit. Second, the level of CO_2 in the atmosphere has been increasing for more than 150 years. Third, CO_2 is a greenhouse gas—and increases in it, other things being equal, are likely to lead to further warming. Beyond these few facts, science remains unable either to attribute past climate changes to changes in CO_2 or to forecast with any degree of precision how climate will change in the future.

Of the rise in temperature during the 20th century, the bulk occurred from 1900 to 1940. It was followed by the aforementioned cooling trend from 1940 to around 1975. Yet the concentration of greenhouse gases was measurably higher in that later period than in the former. That drop in temperature came after what was described in the National Geographic as ''six decades of abnormal warmth.''

In recent years much attention has been paid in the press to longer growing seasons and shrinking glaciers. Yet in the earlier period up to 1975, the annual growing season in England had shrunk by some nine or 10 days, summer frosts in the upper Midwest occasionally damaged crops, the glaciers in Switzerland had begun to advance again, and sea ice had returned to Iceland's coasts after more than 40 years of its near absence.

When we look back over the past millennium, the questions that arise are even more perplexing. The so-called Climatic Optimum of the early Middle Ages, when the earth temperatures were 1 to 2 degrees warmer than today and the Vikings established their flourishing colonies in Greenland, was succeeded by the Little Ice Age, lasting down to the early 19th century. Neither can be explained by concentrations of greenhouse gases. Moreover, through much of the earth's history, increases in CO_2 have followed global warming, rather than the other way around.

We cannot tell how much of the recent warming trend can be attributed to the greenhouse effect and how much to other factors. In climate change, we have only a limited grasp of the overall forces at work. Uncertainties have continued to abound—and must be reduced. Any approach to policy formation under conditions of such uncertainty should be taken only on an exploratory and sequential basis. A premature commitment to a fixed policy can only proceed with fear and trembling.

In the Third Assessment by the International Panel on Climate Change, recent climate change is attributed primarily to human causes, with the usual caveats regarding uncertainties. The record of the past 150 years is scanned, and three forcing mechanisms are highlighted: anthropogenic (human-caused) greenhouse gases, volcanoes and the 11-year sunspot cycle. Other phenomena are represented poorly, if at all, and generally are ignored in these models. Because only the past 150 years are captured, the vast swings of the previous thousand years are not analyzed. The upshot is that any natural variations, other than volcanic eruptions, are overshadowed by anthropogenic greenhouse gases.

Most significant: The possibility of long-term cycles in solar activity is neglected because there is a scarcity of direct measurement. Nonetheless, solar irradiance and its variation seem highly likely to be a principal cause of long-term climatic change. Their role in longer-term weather cycles needs to be better understood.

There is an idea among the public that ''the science is settled.'' Aside from the limited facts I cited earlier, that remains far from the truth. Today we have far better instruments, better measurements and better time series than we have ever had. Still, we are in danger of prematurely embracing certitudes and losing open-mindedness. We need to be more modest.

Mr. VOINOVICH. Schlesinger points out that ''science remains unable to either attribute past climate changes to changes in CO_2 or to forecast with any degree of precision how [the] climate will change in the future,'' and warns that:

We cannot tell how much of the recent warming trend can be attributed to the greenhouse gas effect and how much to other factors. In climate change, we have only a limited grasp of the overall forces at work. Uncertainties have continued to abound—and must be reduced. Any approach to policy formation under conditions of such uncertainty should be taken only on an exploratory and sequential basis. A premature commitment to a fixed policy can only proceed with fear and trembling.

Several Members of this body have introduced pieces of legislation this year and a couple last year to address the issue of climate change by capping carbon—such as the Jeffords-Lieberman 4–P bill, the Carper 4–P bill, and, of course, the subject of our debate today, the McCain-Lieberman climate change bill.

Passage of any of these bills will force our utilities which are now using coal to generate over half of our Nation's electricity—by the way, 85 percent of electricity generated in my State—to fuel-switch and to rely solely on natural gas for generation despite the fact we have a 250-year supply of domestic coal and are currently in the grips of a natural gas crisis.

Senator LIEBERMAN, in his opening statement, mentioned two companies from Ohio I am very familiar with, ADP and Synergy. There was some indication there was possibly—from his words—support for S. 139. I make it clear for the record that ADP and Synergy—ADP is the company that burns more coal than any other utility in the country—are both opposed to S. 139.

Mr. INHOFE. Will the Senator yield?

Mr. VOINOVICH. Certainly.

Mr. INHOFE. I am glad you brought that up. That was the information I had on who is opposed to it, naming Synergy. The Senator from Connecticut said they are now supporting S. 139. You have information to the contrary, is that correct?

Mr. VOINOVICH. Yes, I do.

Over the last decade, use of natural gas electricity generation has risen significantly while domestic supplies of natural gas have fallen. The result is predictable: tightening supplies of natural gas, higher natural gas prices, and higher electricity prices.

Home heating prices are up dramatically, forcing folks on low and fixed income to choose between heating their home and paying for other necessities such as food or medicine.

Donald Mason, a commissioner on the Ohio Public Utilities Commission, testified earlier this year in the House Energy and Commerce Committee:

In real terms, the home heating cost this winter will increase by at least $220 per household. That might sound not significant,

but during the winter season of 2000–2001, one gas company in Ohio saw nonpayment jump from $10 million a year to $26 million.

One of the amendments I supported in the Senate to the Labor-HHS bill would have provided more money for LIHEAP, the low-income help in heating costs. We will have a crisis this winter in natural gas costs.

As a result of these heating cost increases, 50 percent more residential customers were disconnected from gas service last year than in 2001. I personally have seen natural gas go from $4 an MCF to $8 an MCF in heating bills in northeast Ohio and projections indicate this winter will be devastating on the elderly and low-income families who are already struggling to survive.

In an Environment and Public Works Committee hearing last year, Thomas Mullen, of Catholic Charities and Health and Human Services of Cleveland, described the direct impact of significant increases of energy prices on those who are less fortunate. Here is what he had to say:

In Cleveland, over one-fourth of all children live in poverty and are in a family of a single female head of household. These children will suffer from further loss of basic needs as their moms are forced to make choices of whether to pay the rent or live in a shelter; pay the heating bill or see their child freeze; buy food or risk availability of a hunger center. These are not choices that any senior citizen, child, or for that matter, person in America should make.

What really gets to me was after he made that statement the Clean Air Trust, the O'Donnell person who is always speaking out on these issues, named Tom Mullen, the head of Catholic Charities, as the villain of the month because he dared talk about energy costs impacting the poor and elderly in this country.

Manufacturers that use natural gas as feedstock are getting hammered because of the doubling and tripling of natural gas costs and are leaving the country or closing their doors. It is happening. Lubrizol, a chemical company, has moved production to France as a result of a threefold increase in natural gas prices from $3 per million Btu in 2002 to $10 per Btu in 2003. The president of Zaclon, a chemical manufacturer based in Cleveland, testified this year that increased natural gas costs resulted in lost sales revenue and increased total energy cost. The president of one major international pharmaceutical company, a company that has 22,000 employees in the United States, recently told me unless we do something about our natural gas crisis, his company will be forced to pull many of its operations out of the United States. Due to high natural gas prices, the Dow Chemical Company, headquartered in Michigan, will be forced to shut down several plants and eliminate 3,000 to 4,000 jobs this year. The American Iron and Steel Institute reported that an integrated steel mill—we have some in Ohio still—could pay as much as $73 million for natural gas this year, up $37 million from last year. An east Texas poultry producer reported his poultry house heating bill jumped from $3,900 to $12,000 in one month, forcing him to decide between paying the bank or the gas company.

High natural gas prices have resulted in the permanent closure of almost 20 percent of the United States nitrogen fertilizer production capacity and the idling of an additional 25 percent. That is why the corn growers and other agriculture groups are opposed to McCain-Lieberman.

The Potash Corporation, one of the world's largest fertilizer producers, has announced layoffs at the Louisiana and Tennessee plants due to high natural gas prices. The company spends $2 million per day on natural gas.

A farmer in Belleville, MO, who paid $295 per ton for nitrogen fertilizer last fall expects to pay between $400 and $600 this year. It is impacting the entire segment of our economy.

Utilities are already facing tremendous increases in their fuels costs, which force them to either take losses or pass these increases on to their customers. And the carbon caps proposed by Senators MCCAIN and LIEBERMAN will only exacerbate this situation.

The end result is a drag on the economy. But don't take my word for it. Federal Reserve Chairman Alan Greenspan has testified before the Senate Energy Committee, the House Energy and Commerce Committee, and the Congressional Joint Economic Committee on the supply and price of natural gas this year, stating:

I'm quite surprised at how little attention the natural gas problem has been getting because it is a very serious problem.

Among his comments, Chairman Greenspan noted:

The price of gas for delivery in July closed at $6.31 per billion Btu's. That contract sold for as low as $2.55 in July 2000 and for $3.65 a year ago.

Mr. President, I ask unanimous consent that the testimony of Dr. Greenspan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ALAN GREENSPAN, CHAIRMAN, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, U.S. SENATE, WASHINGTON, DC, JULY 10, 2003

Today's tight natural gas markets have been a long time in coming, and distant futures prices suggest that we are not apt to return to earlier periods of relative abundance and low prices anytime soon. It was little more than a half-century ago that drillers seeking valuable crude oil bemoaned the discovery of natural gas. Given the lack of adequate transportation, wells had to be capped or the gas flared. As the economy expanded after World War II, the development of a vast interstate transmission system facilitated widespread consumption of natural gas in our homes and business establishments. On a heat-equivalent basis, natural gas consumption by 1970 had risen to three-fourths of that of oil. But consumption lagged in the following decade because of competitive incursions from coal and nuclear power. Since 1985, natural gas has gradually increased its share of total energy use and is projected by the Energy Information Administration to gain share over the next quarter century, owing to its status as a clean-burning fuel.

Recent years' dramatic changes in technology are making existing energy reserves stretch further while keeping long-term energy costs lower than they otherwise would have been. Seismic techniques and satellite imaging, which are facilitating the discovery of promising new natural gas reservoirs, have nearly doubled the success rate of new-field wildcat wells in the United States during the past decade. New techniques allow far deeper drilling of promising fields, especially offshore. The newer recovery innovations reportedly have significantly raised the average proportion of gas reserves eventually brought to the surface. Technologies are facilitating Rocky Mountain production of tight sands gas and coalbed methane. Marketed production in Wyoming, for example, has risen from 3.4 percent of total U.S. output in 1996 to 7.1 percent last year.

Moreover, improving technologies have also increased the depletion rate of newly discovered gas reservoirs, placing a strain on supply that has required increasingly larger gross additions from drilling to maintain any given level of dry gas production. Depletion rates are estimated to have reached 27 percent last year, compared with 21 percent as recently as five years ago. The rise has been even more pronounced for conventionally produced gas because tight sands gas, which comprises an increasing share of new gas finds, exhibits a slower depletion rate than conventional wells.

Improved technologies, however, have been unable to prevent the underlying long-term price of natural gas in the United States from rising. This is most readily observed in markets for natural gas where contract delivery is sufficiently distant to allow new supply to be developed and brought to market. That price has risen gradually from $2 per million Btu in 1997 for delivery in 2000, and presumably well beyond, to more than $4.50 for delivery in 2009, the crude oil heating equivalent of rising from less than $12 per barrel to $26 per barrel. Over the same period, the distant futures price of light sweet crude oil has edged up only $4 per barrel and is selling at a historically rare discount to comparably dated natural gas.

Because gas is particularly challenging to transport in its cryogenic form as a liquid, imports of liquefied natural gas (LNG) have been negligible. Environmental and safety concerns and cost have limited the number of LNG terminals and imports of LNG. In 2002, such imports accounted for only 1 percent of U.S. gas supply. Canada, which has recently supplied a sixth of our consumption, has little capacity to significantly expand its exports, in part because of the role that Canadian gas plays in supporting growing oil production from tar sands.

Given notable cost reductions for both liquefaction and transportation of LNG, significant global trade is developing. And high gas prices projected in the American distant futures market have made us a potential very large importer. Worldwide imports of natural gas in 2002 were only 23 percent of world consumption, compared to 57 percent for oil.

Even with markedly less geopolitical instability confronting world gas than world oil in recent years, spot gas prices have been far more volatile than those for oil, doubtless reflecting, in part, less-developed, price dampening global trade. The updrift and volatility of the spot price for gas have put significant segments of the North American gas-using industry in a weakened competitive position. Unless this competitive weakness is addressed, new investment in these technologies will flag.

Increased marginal supplies from abroad, while likely to notably damp the levels and volatility of American natural gas prices, would expose us to possibly insecure sources of foreign supply, as it has for oil. But natural gas reserves are somewhat more widely dispersed than those of oil, for which three-fifths of proved world reserves reside in the Middle East. Nearly two-fifths of world natural gas reserves are in Russia and its former satellites, and one-third are in the Middle East.

Creating a price-pressure safety valve through larger import capacity of LNG need not unduly expose us to potentially unstable sources of imports. There are still numerous unexploited sources of gas production in the United States. We have been struggling to reach an agreeable tradeoff between environmental and energy concerns for decades. I do not doubt we will continue to fine-tune our areas of consensus. But it is essential that our policies be consistent. For example, we cannot, on the one hand, encourage the use of environmentally desirable natural gas in this country while being conflicted on larger imports of LNG. Such contradictions are resolved only by debilitating spikes in price.

In summary, the long-term equilibrium price for natural gas in the United States has risen persistently during the past six years from approximately $2 per million Btu to more than $4.50. Although futures markets project a near-term modest price decline from current highly elevated levels, contracts written for delivery in 2009 are more than double the levels that had been contemplated when much of our existing gas-using capital stock was put in place. The perceived tightening of long-term demand-supply balances is beginning to price some industrial demand out of the market. It is not clear whether these losses are temporary, pending a fall in price, or permanent.

Such pressures do not arise in the U.S. market for crude oil. American refiners have unlimited access to world supplies, as was demonstrated most recently when Venezuelan oil production shut down. Refiners were able to replace lost oil with supplies from Europe, Asia, and the Middle East. If North American natural gas markets are to function with the flexibility exhibited by oil, unlimited access to the vast world reserves of gas is required. Markets need to be able to effectively adjust to unexpected shortfalls in domestic supply. Access to world natural gas supplies will require a major expansion of LNG terminal import capacity and development of the newer offshore regasification technologies. Without the flexibility such facilities will impart, imbalances in supply and demand must inevitably engender price volatility.

As the technology of LNG liquefaction and shipping has improved, and as safety considerations have lessened, a major expansion of U.S. import capability appears to be under way. These movements bode well for widespread natural gas availability in North America in the years ahead.

NATURAL GAS SUPPLY AND DEMAND ISSUES, FULL COMMITTEE ON ENERGY AND COMMERCE, JUNE 10, 2003, RAYBURN HOUSE OFFICE BUILDING

Hon. ALAN GREENSPAN,

Chairman, The Federal Reserve Board, Washington, DC.

In recent months, in response to very tight supplies, prices of natural gas have increased sharply. Working gas in storage is currently at very low levels relative to its seasonal norm because of a colder-than-average winter and a seeming inability of increased gas well drilling to significantly augment net marketed production. Canada, our major source of imported natural gas, has had little room to expand shipments to the United States, and our limited capacity to import liquefied natural gas (LNG) effectively restricts our access to the world's abundant supplies of gas.

Our inability to increase imports to close a modest gap between North American demand and production (a gap we can almost always close in oil) is largely responsible for the marked rise in natural gas prices over the past year. Such price pressures are not evident elsewhere. Competitive crude oil prices, after wide gyrations related to the war in Iraq, are now only slightly elevated from a year ago, and where spot markets for natural gas exist, such as in Great Britain, prices exhibit little change from a year ago. In the United States, rising demand for natural gas, especially as a clean-burning source of electric power, is pressing against a supply essentially restricted to North American production.

Given the current infrastructure, the U.S. market for natural gas is mainly regional, is characterized by relatively longer term contracts, and is still regulated, but less so than in the past. As a result, residential and commercial prices of natural gas respond sluggishly to movements in the spot price. Thus, to the extent that natural gas consumption must adjust to limited supplies, most of the reduction must come from the industrial sector and, to a lesser extent, utilities.

Yesterday the price of gas for delivery in July closed at $6.31 per million Btu. That contract sold for as low as $2.55 in July 2000 and for $3.65 a year ago. Futures markets project further price increases through the summer cooling season to the peak of the heating season next January. Indeed, market expectations reflected in option prices imply a 25 percent probability that the peak price will exceed $7.50 per million Btu.

Today's tight natural gas markets have been a long time in coming, and futures prices suggest that we are not apt to return to earlier periods of relative abundance and low prices anytime soon. It was little more than a half-century ago that drillers seeking valuable crude oil bemoaned the discovery of natural gas. Given the lack of adequate transportation, wells had to be capped or the gas flared. As the economy expanded after World War II, the development of a vast interstate transmission system facilitated widespread consumption of natural gas in our homes and business establishments. On a heat-equivalent basis, natural gas consumption by 1980 had risen to three-fourths of that of oil. But natural gas consumption lagged in the following decade because of competitive incursions from coal and nuclear power. Since 1985, natural gas has gradually increased its share of total energy use and is projected by the Energy Information Administration to gain share over the next quarter century, owing to its status as a clean-burning fuel.

Recent years' dramatic changes in technology are making existing energy reserves stretch further while keeping long-term energy costs lower than they otherwise would have been. Seismic techniques and satellite imaging, which are facilitating the discovery of promising new natural gas reservoirs, have nearly doubled the success rate of new-field wildcat wells in the United States during the past decade. New techniques allow far deeper drilling of promising fields, especially offshore. The newer recovery innovations reportedly have raised the average proportion of gas reserves eventually brought to the surface. Technologies are facilitating Rocky Mountain production of tight sands gas and coalbed methane. Marketed production in Wyoming, for example, has risen from 3.4 percent of total U.S. output in 1996 to 7.1 percent last year.

One might expect that the dramatic shift away from hit-or-miss methods toward more advanced technologies would have lowered the cost of developing new fields and, hence, the long-term marginal costs of new gas. Indeed, those costs have declined, but by less than might have been the case because much of the innovation in oil and gas development outside of OPEC has been directed at overcoming an increasingly inhospitable and costly exploratory physical environment.

Moreover, improving technologies have also increased the depletion rate of newly discovered gas reservoirs, placing a strain on supply that has required increasingly larger gross additions from drilling to maintain any given level of dry gas production. Depletion rates are estimated to have reached 27 percent last year, compared with 21 percent as recently as five years ago. The rise has been even more pronounced for conventionally produced gas because tight sands gas, which comprises an increasing share of new gas finds, exhibits a slower depletion rate than conventional wells.

Improved technologies, however, have been unable to prevent the underlying long-term price of natural gas in the United States from rising. This is most readily observed in markets for natural gas where contract delivery is sufficiently distant to allow new supply to be developed and brought to market. That price has risen gradually from $2 per million Btu in 1997 for delivery in 2000, and presumably well beyond, to more than $4.50 for delivery in 2009, the crude oil heating equivalent of rising from less than $12 per barrel to $26 per barrel. Over the same period, the distant futures price of light sweet crude oil has edged up only $4 per barrel and is selling at a historically rare discount to comparably dated natural gas.

Because gas is particularly challenging to transport in its cryogenic form as a liquid, imports of LNG have been negligible. Environmental and safety concerns and cost have limited the number of LNG terminals and imports of LNG. In 2001, LNG imports accounted for only 1 percent of U.S. gas supply. Canada, which has recently supplied a sixth of our consumption, has little capacity to significantly expand its exports, in part because of the role that Canadian gas plays in supporting growing oil production from tar sands.

Given notable cost reductions for both liquefaction and transportation of LNG, significant global trade is developing. And high gas prices projected in the American distant futures market have made us a potential very large importer. Worldwide imports of natural gas in 2000 were only 26 percent of world consumption, compared to 50 percent for oil.

Even with markedly less geopolitical instability confronting world gas than world oil in recent years, spot gas prices have been far more volatile than those for oil, doubtless reflecting, in part, less-developed global trade. The updrift and volatility of the spot price for gas have put significant segments of the North American gas-using industry in a weakened competitive position. Unless this competitive weakness is addressed, new investment in these technologies will flag.

Increased marginal supplies from abroad, while likely to notably damp the levels and volatility of American natural gas prices, would expose us to possibly insecure sources of foreign supply, as it has for oil. But natural gas reserves are somewhat more widely dispersed than those of oil, for which three-fifths of proved world reserves reside in the Middle East. Nearly two-fifths of world natural gas reserves are in Russia and its former satellites, and one-third are in the Middle East.

Creating a price-pressure safety valve through larger import capacity of LNG need

not unduly expose us to potentially unstable sources of imports. There are still numerous unexploited sources of gas production in the United States. We have been struggling to reach an agreeable tradeoff between environmental and energy concerns for decades. I do not doubt we will continue to fine-tune our areas of consensus. But it is essential that our policies be consistent. For example, we cannot, on the one hand, encourage the use of environmentally desirable natural gas in this country while being conflicted on larger imports of LNG. Such contradictions are resolved only by debilitating spikes in price.

In summary, the long-term equilibrium price for natural gas in the United States has risen persistently during the past six years from approximately $2 per million Btu to more than $4.50. The perceived tightening of long-term demand-supply balances is beginning to price some industrial demand out of the market. It is not clear whether these losses are temporary, pending a fall in price, or permanent.

Such pressures do not arise in the U.S. market for crude oil. American refiners have unlimited access to world supplies, as was demonstrated most recently when Venezuelan oil production shut down. Refiners were able to replace lost oil with supplies from Europe, Asia, and the Middle East. If North American natural gas markets are to function with the flexibility exhibited by oil, unlimited access to the vast world reserves of gas is required. Markets need to be able to effectively adjust to unexpected shortfalls in domestic supply. Access to world natural gas supplies will require a major expansion of LNG terminal import capacity. Without the flexibility such facilities will impart, imbalances in supply and demand must inevitably engender price volatility.

As the technology of LNG liquefaction and shipping has improved, and as safety considerations have lessened, a major expansion of U.S. import capability appears to be under way. These movements bode well for widespread natural gas availability in North America in the years ahead.

STATEMENT OF ALAN GREENSPAN, CHAIRMAN, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM BEFORE THE JOINT ECONOMIC COMMITTEE, MAY 21, 2003

Mr. Chairman, I appreciate the opportunity to testify before the Joint Economic Committee. As you will recall, when I appeared here last November, I emphasized the extraordinary resilience manifested by the United States economy in recent years—the cumulative result of increased flexibility over the past quarter century. Since the middle of 2000, our economy has withstood serious blows: a significant decline in equity prices, a substantial fall in capital spending, the terrorist attacks of September 11, confidence-debilitating revelations of corporate malfeasance, and wars in Afghanistan and Iraq. Any combination of these shocks would arguably have induced a severe economic contraction two or three decades ago. Yet remarkably, over the past three years, activity has expanded, on balance—an outcome offering clear evidence of a flexible, more resilient, economic system.

Once again this year, our economy has struggled to surmount new obstacles. As the tensions with Iraq increased early in 2003, uncertainties surrounding a possible war contributed to a softening in economic activity. Oil prices moved up close to $40 a barrel in February, stock prices tested their lows of last fall, and consumer and business confidence ebbed. Although in January there were some signs of a post-holiday pickup in retail sales other than motor vehicles, spending was little changed, on balance, over the following three months as a gasoline price surge drained consumer purchasing power and severe winter weather kept many shoppers at home.

Businesses, too, were reluctant to initiate new projects in such a highly uncertain environment. Hiring slumped, capital spending plans were put on hold, and inventories were held to very lean levels. Collectively, households and businesses hesitated to make decisions, pending news about the timing, success, and cost of military action—factors that could significantly alter the outcomes of those decisions.

The start of the war and its early successes, especially the safeguarding of the Iraqi oilfields, were greeted positively by financial and commodities markets. Stock prices rallied, risk spreads narrowed, oil prices dropped sharply, and the dour mood that had gripped consumers started to lift, precursors that historically have led to improved economic activity. The quick conclusion of the conflict subsequently added to financial gains.

We do not yet have sufficient information on economic activity following the end of hostilities to make a firm judgment about the current underlying strength of the real economy. Incoming data on labor markets and production have been disappointing. Payrolls fell further in April, and industrial production declined as well. Because of the normal lags in scheduling production and in making employment decisions, these movements likely reflect business decisions that, for the most part, were made prior to the start of the war, and many more weeks of data will be needed to confidently discern the underlying trends in these areas.

One reassuring development that has been sustained through this extended period of economic weakness has been the performance of productivity. To the surprise of most analysts, labor productivity has continued to post solid gains. Businesses are apparently continuing to discover unexploited areas of cost reduction that had accumulated during the boom years of 1995 to 2000 when the projected huge returns from market expansion dulled incentives for seemingly mundane cost savings. The ability of business managers to reduce costs, especially labor costs, through investment or restructuring is, of course, one reason that labor markets markets have been so weak.

Looking ahead, the consensus expectation for a pickup in economic activity is not unreasonable, though the timing and extent of that improvement continue to be uncertain. The stance of monetary policy remains accommodative, and conditions in financial markets appear supportive of an increased pace of activity. Interest rates remain low, and funds seem to be readily available to creditworthy borrowers. These factors, along with the ability of households to tap equity accrued in residential properties, should continue to bolster consumer spending and the purchase of new homes.

The recent declines in energy prices are another positive factor in the economic outlook. The price of West Texas intermediate crude oil dropped back to below $26 per barrel by the end of April, but as indications of a delay in the restoration of Iraqi oil exports became evident and geopolitical risks crept back in, prices have risen to near $30 a barrel—a worrisome trend if continued. Nonetheless, the price of crude oil is still about $10 per barrel below its peak in February. This decline has already shown through to the price of gasoline in May. Some modest further declines in gas prices are likely in coming weeks, as marketers' profit margins continue to back off from their elevated levels of March and April to more normal levels.

In contrast, prices for natural gas have increased sharply in response by very tight supplies. Working gas in storage is presently at extremely low levels, and the normal seasonal rebuilding of these inventories seems to be behind the typical schedule. The colder-than-average winter played a role in producing today's tight supply situation as did the inability of heightened gas well drilling to significantly augment net marketed production. Canada, our major source of gas imports, has little room to expand shipments to the United States. Our limited capacity to import liquified natural gas effectively restricts our access to the world's abundant supplies of natural gas. The current tight domestic natural gas market reflects the increases in demand over the past two decades. The demand has been spurred by myriad new uses for natural gas in industry and by the increased use of natural gas as a clean-burning source of electric power.

On balance, recent movements in energy prices seem likely to be a favorable influence on the overall economy. In the short run, lower energy bills should give a boost to the real incomes of households and to business profits. To be sure, world energy markets obviously remain susceptible to politically driven supply disruptions, as has been evident recently from the events in Venezuela and Nigeria. But, even taking account of these risks, futures markets project crude oil prices to fall over the longer run, consistent with the notion that current prices are above the long-term supply price of oil.

As has been the case for some time, the central question about the outlook remains whether business firms will quicken the pace of investment now that some, but by no means all, of the geopolitical uncertainties have been resolved. A modestly encouraging sign is the backlog of orders for nondefense capital goods excluding aircraft, which has been moving up in recent months. Moreover, recent earnings reports suggest that the profitability of many businesses is on the mend. That said, firms still appear hesitant to spend and hire, and we need to remain mindful of the possibility that lingering business caution could be an impediment to improved economic performance.

One new uncertainty in the global economic outlook has been the outbreak of severe acute respiratory syndrome (SARS) in Southeast Asia and elsewhere. This epidemic has hit the economies of Hong Kong and China particularly hard, as tourism and business travel has been severely curtailed and as measures to contain the spread of the virus have held down retail sales.

To date, the effects of SARS on the U.S. economy have been minimal. Airlines have obviously suffered another seriously blow, and some U.S. multinational corporations are reporting reduced foreign sales. But the effects on other industries have been small. Initially, there had been some concern that SARS would disrupt the just-in-time inventory systems of U.S. manufacturers. Many of those systems rely on components from Asia, and any disruption in the flow of these goods has the potential to affect production in the United States. So far, however, U.S. manufacturing output has not been noticeably affected.

In recent months, inflation has dropped to very low levels. As I noted earlier, energy prices already are reacting to the decline in crude oil prices, and core consumer price inflation has been minimal. Inflation is now sufficiently low that it no longer appears to be much of a factor in the economic calculations of households and businesses. Indeed, we have reached a point at which, in the judgment of the Federal Open Market Committee, the probability of an unwelcome substantial fall in inflation over the next few

quarters, though minor, exceeds that of a pickup in inflation.

Mr. Chairman, the economic information received in recent weeks has not, in my judgment, materially altered the outlook. Nonetheless, the economy continues to be buffeted by strong cross currents. Recent readings on production and employment have been on the weak side, but the economic fundamental—including the improved conditions in financial markets and the continued growth in productivity—augur well for the future.

Mr. VOINOVICH. Mr. President, the Senate has passed a comprehensive energy bill that is currently stuck in conference with the House of Representatives. The energy bill passed by the Senate includes several provisions to increase domestic production of natural gas and to ensure that we have a healthy, vital fuel mix for electric generation.

It is vitally important for the conference committee to wrap up its work and report a bill that will increase our supplies of natural gas and promote alternatives to natural gas.

Unfortunately, the legislation that has been offered by Senators MCCAIN and LIEBERMAN goes in exactly the opposite direction. We are trying to free up more natural gas. We are trying to take the heat off the demand for natural gas. It will force our utilities to fuel switch to natural gas. It will significantly raise energy prices. It will cause additional thousands of jobs to be lost. And I agree with the Senator from Missouri, Mr. BOND, that is what is going to happen.

The Energy Information Administration estimates that passage of S. 139—I think this is really important, and our colleagues should listen to this—will raise petroleum products prices by 31 percent, raise natural gas prices by 79 percent, raise electricity prices by 46 percent, and reduce GDP by up to $93 billion by 2025.

I just received a letter today from Commerce Secretary Evans, Labor Secretary Chao, and Acting EPA Administrator Horinko. Here is what they said in the letter:

According to an analysis conducted by the Independent Information Administration (EIA), S. 139 would cause an estimated average loss of 460,000 American jobs through 2025, with estimated job losses reaching 600,000 by 2012. Instead of improving our economic security through economic growth and job creation, the job losses resulting from S. 139 would place an unacceptable burden on American workers and the American people.

EIA's analysis further reveals the higher energy costs the legislation would impose on American energy consumers: once fully implemented, S. 139 would require a 40 cent per gallon increase in gasoline prices and cause a nearly 50% increase in natural gas and electricity bills.

As a result of these higher energy costs, EIA projects a net loss of $507 billion (1996 dollars) in Gross Domestic Production over the next two decades. These higher energy costs and reduced economic growth would likely lead American businesses to move overseas, taking jobs with them.

Mr. President, I ask unanimous consent that this letter from Secretary Evans, Secretary Chao, and Acting EPA Administrator Horinko be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 28, 2003.

Hon. GEORGE VOINOVICH,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR VOINOVICH: We are writing to state our serious concerns about S. 139, ''The Climate Stewardship Act of 2003,'' and to strongly urge that you vote against this bill to avoid the significant job losses and economic harm that it would inflict on our economy, without necessarily achieving any reduction in global greenhouse gas emissions.

According to an analysis conducted by the independent Energy Information Administration (EIA), S. 139 would cause an estimated average of 460,000 American jobs through 2025, with estimated job losses reaching 600,000 by 2012. Instead of improving our economic security through economic growth and job creation, the job losses resulting from S. 139 would place an unacceptable burden on American workers and the American people. EIA's analysis further reveals the higher energy costs the legislation would impose on American energy consumers: once fully implemented, S. 139 would require a 40 percent per gallon increase in gasoline prices and cause nearly a 50% increase in natural gas and electricity bills.

As a result of these higher energy costs, EIA projects a net loss of $507 billion (1996 dollars) in Gross Domestic Product over the next two decades. These higher energy costs and reduced economic growth would likely lead American businesses to move overseas, taking jobs with them. As a result, S. 139 may actually lead to an increase in global greenhouse gas emissions as companies formerly in the U.S. move their operations (and emissions) overseas to countries that do not require similar emissions reductions. To compensate for the economic dislocation that S. 139 would cause, the legislation establishes a ''Climate Change Credit Corporation'' for ''transaction assistance to dislocated workers and communities.'' However, we believe that the Senate should instead reject this legislation and avoid inflicting the harm that would create the need for such ''transition assistance'' in the first place.

President Bush has committed the U.S. to an ambitious and comprehensive strategy to address the issue of global climate change. It is based on the recognition that only a growing American economy can make possible the sustained investments in energy and carbon sequestration technologies needed to reduce the projected long-term growth in global greenhouse gas emissions. Because of its negative impacts on jobs and economic growth, we call upon the Senate to reject S. 139 as a misguided means of achieving our international environmental goals.

DONALD L. EVANS,
Secretary of Commerce.
ELAINE L. CHAO,
Secretary of Labor.
MARIANNE L. HORINKO,
Acting Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator has used 7 minutes.

Mr. VOINOVICH. Mr. President, I ask for another 5 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. VOINOVICH. Three?

Mr. INHOFE. Mr. President, I yield an additional 3 minutes from our side to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. As I said, Mr. President, carbon caps mean fuel switching. Carbon caps mean the end of manufacturing in my State. They mean enormous burdens on the least of our brethren. And they mean moving jobs and production overseas.

What we need to do is move forward in a responsible manner, and move away from harshly ideological positions that advance nothing other than the agenda of environmental groups that have made support for carbon caps a political litmus test.

We must move forward in a manner that includes sound science and concrete reductions in carbon without seriously harming our economy.

In response to the need for better understanding of the underlying science of climate change, President Bush has moved forward aggressively to focus administration science and climate programs on a comprehensive approach to this issue.

Earlier this year, Secretary Veneman announced a new series of initiatives to increase agricultural sequestration of carbon, which is a major problem. The Department of Energy is implementing President Bush's $2 billion Clean Coal Technology Initiative. And the DOE and the Environmental Protection Agency have worked with the State Department on several international carbon control and sequestration projects, including the exportation of clean coal technologies to underdeveloped nations.

I appreciate the steps the administration is taking on climate change. I would like to make clear today that, as a State legislator, county official, mayor, and Governor of Ohio, I have been able to work across the aisle with environmental groups to accomplish many things. Efforts were successful because reasonable minds were able to sit at the table together, work together in good faith, and get things done.

It is unfortunate in this debate that we have not been able to sit down with folks and work through this issue in good faith. Our friends in the environmental community and their allies in Congress have hardened their positions on climate change to the point that voting for carbon caps—despite the tremendous negative impact such caps have on jobs, the poor, and our economy—has become a litmus test.

In a word, this position is unreasonable. It is unreasonable that nothing other than capping carbon is acceptable. It is unreasonable that nothing other than forcing utilities to rely solely on natural gas to generate electricity and devastating our economy is acceptable. And, finally, it is unreasonable that nothing other than sending

American jobs overseas and driving up energy costs for the poor and elderly on fixed income is acceptable.

Mr. President, I have been fortunate to serve the State of Ohio for many years. I take my responsibility to serve my State's interests very seriously. And I will work all day, every day, to block legislation such as this legislation that will devastate my State.

I urge my colleagues to vote no on S. 139, a bill that will shut down our manufacturers, send thousands of American jobs overseas—to countries that do not have the environmental laws that we have in America—significantly raise energy prices for those who can least afford them, and do little or nothing to solve the global warming problem.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I just want to, very briefly, respond to a few of the remarks of my friend from Ohio.

My friend from Ohio is talking about a bill that is not the one before us. The EIA estimate was of the original McCain-Lieberman bill. In an attempt to achieve consensus, we took off the second set of requirements. So now the bill says, to put it simply, that the Nation has to reach the 2000 level by 2010 of greenhouse gas emissions. No EIA study has been done on this bill.

We have a study from the MIT Joint Program on the Science and Policy of Global Change. Just to put the minds of viewers at ease about what the impact of this will be on the cost of energy, MIT estimates that the bill before us will have a positive effect on coal prices, in fact, dropping them by 5 percent, natural gas prices by 5 percent, and crude oil prices by 2 percent.

Secondly, there has been some reference to Cinergy and American Electric Power. I want to make clear, I did not say—I certainly did not intend to say; I do not believe I did say—that those companies endorsed our proposal. But the fact is, Cinergy did testify that they could live by the amendment without additional cost. And that is the relevant part of it.

Mr. MCCAIN. Will the Senator yield for one question?

Mr. LIEBERMAN. I am happy to yield to the Senator from Arizona.

Mr. MCCAIN. I have a letter entitled ''The State of Climate Science: October 2003, A Letter from U.S. Scientists''—1,010 scientists from across America. I want to go into it later on, but they say, in summary: The main conclusions of the IPCC and the NRC—that is the National Academy of Sciences—reports remain robust consensus positions, supported by the vast majority of researchers in the fields of climate change and its impacts.

The body of research carried out since the reports were issued tends to strengthen their conclusion, 1,010 scientists.

We will probably hear it again, but they are relying on an analysis of a bill, because it is what was handed out, that is not even before the Senate. I argue to my friends, it is a waste of the Senate's time to argue statistics, as the Senator from Ohio just did, about a bill that is not before us.

Mr. LIEBERMAN. I thank the Senator from Arizona. I will yield the floor, but I ask unanimous consent that a summary of this MIT study of the bill before us and its cost impacts be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENERGY PRICE IMPACTS OF PHASE I OF S. 139, THE MCCAIN/LIEBERMAN CLIMATE STEWARDSHIP ACT ACCORDING TO THE JUNE, 2003, ECONOMIC ANALYSIS OF S. 139—BY THE MIT JOINT PROGRAM ON THE SCIENCE AND POLICY OF GLOBAL CHANGE

I. Fuel prices followed by % change from reference projections (+/−):

	2005	2010	2015	2020
Gasoline Prices ($/gallon)	$1.63 (0%)	$1.72 (3%)	$1.87 (4%)	$2.14 (5%)
Coal Prices ($/metric ton)	$28.08 (0%)	$27.56 (3%)	$28.12 (−4%)	$28.70 (−5%)
Natural Gas Prices ($/mbtu)	$3.31 (0%)	$3.36 (−2%)	$3.17 (−3%)	$4.14 (−4%)
Crude Oil Prices ($/bbl)	$27.92 (0%)	$28.31 (−1%)	$31.08 (−1%)	$36.58 (−2%)

Note 1: Prices are reported in 2001 $$.

Note 2: Phase I implementation of S. 139 is represented by Scenario #12 in the MIT analysis.

Note 3: The gasoline prices are inclusive of the carbon price, so that whereas the price index of coal drops (exclusive of the carbon price), the price of gasoline goes up when the carbon price is included. This is how the ''upstream allowance'' system works to affect gasoline consumption—through the gasoline price. Coal, oil, and natural gas prices, in contrast, do not include the carbon charge because in S. 139 emissions of CO_2 are controlled at the point of combustion, and so this charge will not be seen in the price.

Note 4: The reason for the natural gas price decline is that, while a bigger share of electricity is produced using gas, overall gas use does go down. (Electricity use goes down due to conservation because of higher electricity prices, so there is less overall need to generate as much electricity as in the reference case.) There are also some modest improvements in efficiency of gas in the electric power sector, and conservation and efficiency in other uses, as well.

Mr. LIEBERMAN. I believe the Senator from Maine is next on our side. I yield to her at this time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I commend Chairman MCCAIN for his extraordinary leadership on this issue, and Senator LIEBERMAN for being able at this point for the first time to debate global climate change here in the Senate. Chairman MCCAIN has held many Commerce Committee hearings. As a member of that committee, I can tell you that he is focused singularly on this issue in terms of trying to address one of the most significant environmental issues facing this country in this century. It is long overdue, and this is the first real debate the Senate has had.

I am glad that Senator LIEBERMAN raised this issue on domestic reductions because that is what this legislation is addressing, domestic reduction of greenhouse gas emissions, specifically carbon dioxide, thought by the vast majority of international scientists to be the cause of global warming.

The legislation before us today, the McCain-Lieberman amendment to the Climate Stewardship Act of 2003, sets out to do just that in an environmentally and economically friendly way. I believe any future delay in acting on climate change will lead the U.S. down a path to even greater environmental damage and greater economic harm. As we review more and more the scientific evidence, it is clear to me that we have to address this issue in a very vigorous and aggressive way.

The main finding of the 2001 National Academy of Science report called ''Climate Change Science: Analysis of Some Key Questions,'' was this:

Greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise.

While this report did not rule out natural variability, it stated that:

. . . the changes observed over the last several decades are likely mostly due to human activities . . .

This first chart that I have from the Intergovernmental Panel on Climate Change should give us all great pause. The red line on this chart shows the extreme jump in increases in temperatures in the last decade alone when compared to the last 1,000 years, according to tree rings, corals, historical records, and from thermometers. Notice how the red line dramatically shoots up at the far right corner of this chart.

Since carbon dioxide emitted today will linger in the atmosphere on average of at least a century, this should be more of a red flag waving before our eyes than just a red line spiraling upwards as to why we should be attempting to reduce our greenhouse gas emissions now.

What is there not to get when you see the variations of the Earth's surface temperature for the past 1,000 years and see the dramatic incline in just the last few years alone?

Addressing global climate change is an issue that cuts across State and national boundaries as well as across interest groups. The majority of religious groups see it as a moral issue, and 75

percent of the general public, according to a new Zogby poll, supports actions under the McCain-Lieberman amendment. Some of the largest companies see it as a business issue. Dupont and BP, realizing climate change's effect on their bottom line, have already achieved larger reductions than our amendment calls for with no net cost.

As a matter of fact, the companies have posted an annual savings of $365 million, and this amendment before us today will give them credits for these early actions.

One might wonder why a Senator from a cold State such as Maine would worry about a little more warmth, unless you consider the implications of climate change on a number of ecosystems that could be thrown out of balance and truly affect life as we know it.

As an example, predictions are that the range of the sugar maple, of significant economic importance to my State during the fall foliage season, will move northward over the next 50 years. The range of softwood and hardwood tree species that grow in Maine are also expected to shift, interfering with the long-term growth plans of the timber industry. In addition, at a recent ''Climate Change and Horticulture'' symposium at Cornell University, scientists stated that crops such as potatoes could be pushed north into Canada. This news doesn't bode well for Maine's crop or those of other potato States such as Idaho, Washington, North Dakota, and Oregon.

As you can see from this next chart, States across the country, as indicated in green, are urging the EPA to consider carbon dioxide a pollutant under the Clean Air Act, and have put carbon caps on powerplants, or are calling on Congress to address the need for reductions in manmade greenhouse gas emissions.

The green States with the stripes are currently investigating potential legislative positions the States can take for carbon sequestration through agriculture and forestry initiatives, a move that could be very important in capturing and storing carbon dioxide that will help with domestic emissions reductions.

As a matter of fact, the New York Times reported in this morning's a edition:

> In the last three years, state legislators have passed at least 29 bills, usually with bipartisan support [that address global warming.]

But it is not just the States that are taking action on this key issue, as mayors from large metropolitan areas and small rural towns, indicated on this chart by the yellow dots, have written Congress in support of the McCain-Lieberman legislation that we are considering tonight.

This past June, my State of Maine passed a bill mandating reductions in carbon dioxide emissions to below 1990 levels by the year 2020. The law requires Maine to develop a climate change action plan by next July to guide State agencies, businesses, and others with a goal of reducing emissions. This bill grew out of a 2001 regional emissions agreement signed by six New England Governors and five eastern Canadian premiers.

New Hampshire has passed a law curbing carbon dioxide pollution from powerplants. On July 9, Northeast States, led by New York Governor George Pataki, called for a Maryland-to-Maine cap on global warming pollution from powerplants and announced a formal agreement for a regional strategy in the Northeast to reduce emissions through a market-based emissions trading system.

Over a year ago, the State of California passed legislation making it the first State to regulate tailpipe emissions of greenhouse gases. And just last month, the Governors of California, Washington, and Oregon announced plans to develop a coordinated strategy to reduce global warming.

In the Midwest, 10 years ago, Wisconsin implemented mandatory reporting requirements for large generators of carbon dioxide and is developing a registry that will enable firms to report carbon dioxide reductions that will allow them to obtain credits for these reductions in any future Federal and State greenhouse gas programs.

These grassroots efforts are sending Congress a clear and unequivocal message, and one that we should certainly listen to because our atmosphere knows no boundaries. We need to develop a national approach as a first step to emissions reductions for solutions that are environmentally and economically sound. The McCain-Lieberman amendment is a first step in that process.

Looking beyond the continental United States at the effects of climate change, scientists tell us that the snows of Kilimanjaro could vanish in 15 years.

The glaciers in the Bolivian Andes that once appeared indestructible may disappear in another 10 years.

In Alaska, where the average temperature has risen almost 5½ degrees over the past 30 years, there is evidence of melting permafrost, sagging roads, and dying forests.

There is also a 150-square mile, 100-foot thick mass of ice that has existed on the coast of Canada for 3,000 years that is disintegrating from a century-long warming trend, and the melting has been accelerating over the past 2 years.

Coral reefs, a large and integral part of the coastal oceans around the world, are under huge stresses as coral bleaching is induced by high water temperatures. Nature magazine reported there is a massive region-wide decline of coral which supports a huge variety of sea life across the entire Caribbean Basin.

Experts at a July 2003 NOAA workshop on coral reefs concluded that climate change will continue to render coral reefs even more vulnerable to human-related stresses, such as pollution, diseases, habitat destruction, and overfishing. Prevailing theory has generally held that the climate will respond to rising carbon dioxide and other greenhouse emissions by gradually growing warmer.

However, according to a December 2001 National Academy of Sciences report, a growing body of scientific evidence suggests that the climate does not respond to change gradually but in sudden jumps that such abrupt changes—and I quote from the report—''are not only possible but likely in the future.''

If such a shift were to happen, it would have immense societal consequences. The report urged that a new research program be initiated to identify the likelihood of the potential impact of a sudden change in climate in response to global warming.

I am pleased the Senate Commerce appropriations legislation included $1.6 million for abrupt climate change research that I and Senator COLLINS requested to establish a NOAA joint institute at the University of Maine for the study of abrupt climate change.

There is no doubt we will continue to need fossil fuel as an energy source. Yet at the same time we should be actively supporting increased use of renewable energy as well. Energy produced from wind, solar, geothermal, and hydropower do not emit carbon dioxide. We must have the will to change, and Congress must take actions to supply the incentives to promote these clean energies and for energy efficiencies so companies can make investments that extend over a period of time.

The amendment before us creates a cap in the trade system that gives businesses more certainty in their business planning, allowing them to receive credits for emissions reduction actions that they can then trade in the marketplace to others who may require credits to meet their obligations. Our proposal even allows the forestry industry to voluntarily enter this program and receive credits for sequestering carbon dioxide through the trees they plant.

We also need more accurate data of just how much carbon dioxide the United States is emitting into the atmosphere every year, and I am convinced we can obtain these numbers voluntarily from some of the worst offenders. So a mandatory registry and reporting system for emissions should be put in place as proposed under this amendment.

Mr. President, I urge the Senate to adopt the McCain-Lieberman amendment to the Climate Stewardship Act. This is going to be absolutely critical for the future of this Nation and for future generations. Through our ingenuity and technology, we need to begin to take the actions to mitigate and to adapt to changes in the global climate

system rather than just deferring through benign neglect the problems for other generations to address.

Working together, as this legislation is purporting to do, on a bipartisan basis, we have the ability to bequeath future generations a world better and more beautiful than was transmitted to us.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we have agreed to go back and forth. I know Senator AKAKA has been waiting for a while. Certainly it is all right to go to him. I wish to make one point first.

It is a little unfair and unrealistic—and I want to make sure everyone interested in this issue understands, we have had the McCain-Lieberman bill for months now, and we have all had a chance to study it. The fact they changed this bill and they are saying you are not talking about the bill before you now, that did not happen until 11:53 this morning. We have not had a chance to see it.

The bottom line is this: As was stated by the Senator from Connecticut, this is just a start. So if their bill is just a start, what it does is recognize CO_2 as a pollutant, and that changes the policy for America. I think the debate from this point forward should go on as if we are talking about the original McCain-Lieberman bill. That is what we will be doing.

I yield to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Oklahoma. With all respect, I say the Senator and others opposing our amendment may continue to talk about the original McCain-Lieberman bill, but that is not the one before us. We announced at a Commerce Committee hearing on October 1 that in an attempt to achieve consensus and find common ground, we were pulling back the second part of our proposal. The first part sets a goal of achieving the standards of emission of 2000 by 2010. The second part would have taken us back to 1990 standards by 2016. We pulled that back.

This is an attempt to try to see if we can move forward together. It has been out there for some period of time now, and the estimate we have seen of its effects comes from MIT, which I submitted for the RECORD earlier.

We will continue to debate whether the facts being presented are relevant to our amendment. I say respectfully they are not.

Mr. INHOFE. Mr. President, I had yielded to the Senator from Connecticut, so let me respond. There are other provisions that arose this morning that no one has seen. It is a new bill. It is a different bill. The Senator may have talked about it in the Commerce Committee. I am not on the Commerce Committee.

I will say this: To receive a bill after months and months of having this bill to look at, preparing our case, only to find out at the last minute, since they obviously didn't have the votes, it was changed, and we received it at 11:53, is not realistic.

The PRESIDING OFFICER. Who yields time? The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, we did distribute a draft of this amendment last week, according to staff. I suppose in some sense we are progressing in this disagreement. I would rather disagree about the impact of the bill than disagree about the science that I think says so clearly the world has a problem. The globe is warming. It is the result of human activity, and we ought to figure out what to do about it.

We will continue this debate. I thank the Senator from Maine for her very eloquent statement on behalf of the amendment. I am very proud of the bipartisan support for the amendment. The truth is, this is a nonpartisan amendment, as the public support for doing something about global warming is truly nonpartisan.

Mr. President, I also thank my friend and colleague, the very distinguished Senator from Hawaii, for his patience and support of the bill. His experience as a Senator from Hawaii with the evidence of global warming is real. It goes beyond statistics and arguments. They have begun to see it with their own eyes. It is, therefore, with a real sense of gratitude I yield whatever time the Senator from Hawaii needs to make his statement.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today to support the Climate Stewardship Act of 2003. As a cosponsor of S. 139, I commend Senators LIEBERMAN and MCCAIN for their bipartisan efforts to craft an important first step in addressing the serious issue of climate change. As was mentioned by Senator LIEBERMAN, Hawaii, a State in the Pacific, is certainly subject to climate change. I also support the proposed amendment which establishes an emissions reporting database, provides climate change research grants, and requires a freeze on current levels of greenhouse gas emissions using a cap and trade system. I compliment Senators LIEBERMAN and MCCAIN for their continued leadership on this issue.

The United States makes up less than 5 percent of the world's population, but releases the largest amount of greenhouse gases of any country. The U.S. accounts for roughly 25 percent of the world's global emissions. In 2001, the National Research Council conducted a study on greenhouse gases at the request of the Bush administration. The council reported that concentrations of greenhouse gases are increasing as a result of human activities. In other words, elevated levels of carbon dioxide are not due solely to natural climate variations. One example is the increase in energy production from the burning of fossil fuels.

The council concluded that increased concentrations of greenhouse gases are causing surface air temperatures and subsurface ocean temperatures to rise. As you can see in the first chart, the World Meteorological Organization, WMO, shows an increase in combined land and ocean temperatures during the past 120 years. We can see clearly the trend that has occurred and where it is at this time. If we look farther back in the historical record, the second chart shows a dramatic spike in air temperature just after the Industrial Revolution. We can see that spike and rapid rise on the chart.

The Intergovernmental Panel on Climate Change, IPCC, a premier international working group, predicts an increase in air surface temperature. The IPCC estimates the increase would be between 2.5 to 10.4 degrees Fahrenheit from the year 1990 to 2100. The Panel also predicts that climate change will likely affect the distribution and availability of regional water resources. My colleagues should recognize that all the varied climate models and scenarios used by the IPCC show a continued increase in air surface temperature.

Strong evidence of increased atmospheric levels of greenhouse gases and climate change is obvious in my home State. The global warming debate began in Hawaii. Over 30 years ago, the Mauna Loa Climate Observatory documented evidence of increased carbon dioxide levels. This graph clearly shows an undeniable upward trend of carbon dioxide in the atmosphere around the world.

It is interesting to note, however, that island communities account for less than 1 percent of global greenhouse gas emissions. Major population centers and infrastructure are located along or near coastal areas. As a result, Pacific island nations are highly vulnerable to increased impacts of climate change. Scientists predict an increase of extreme climate change events such as hurricanes, floods, and droughts. The impacts of these events on business and agriculture in Hawaii and Pacific islands could be particularly severe and devastate our tourist-dependent economies.

In just the past 100 years, Honolulu's average temperature has increased 4.4 degrees Fahrenheit while precipitation has decreased by 20 percent. In Hawaii we have seen that ''El Nino'' events can have strong influences on our climate, causing prolonged periods of drought that hurt Hawaii's agricultural industry. Some climate projections show that the Pacific may actually transition into a more persistent ''El-Nino''-like state, causing dramatic changes to the ecosystem around the world. This change would not only affect farmers, but perhaps even permanently destroy many coral reefs and their associated fisheries throughout the Pacific. In the mid-1990s, El Nino events destroyed at least one-third of Palau's coral reefs. The costs of inaction on climate change far outweigh the costs of this bill.

Sea level rise is also a tremendous concern for Pacific island communities. It can greatly accelerate coastal erosion and saltwater intrusion into groundwater supplies. For many Pacific island nations facing severe shortages of drinking water, sea level rise is a devastating prospect. In Hawaii, sea level has risen six inches in Honolulu and nine inches in Hilo, the big island. The IPCC predicts that sea level will rise another one to two feet in the Pacific by the year 2100. The impacts of even a relatively small sea level rise on Pacific nations and atolls, some with maximum elevations which are less than ten feet above sea level, can be severe. As recently as 2001, rising sea levels caused the loss of land areas in Kiribati and Tuvalu, Pacific nations with low-lying atolls. In the Pacific, cultural activities were interwoven with the conservation of the environment. These traditions allowed the survival of dense populations on small land areas. Today, the global issue of climate change extends beyond our borders and threatens the livelihoods of these nations. Climate change is an important challenge and high priority for immediate action in the Pacific.

The U.S. has tried initiatives such as the Voluntary Reporting of Greenhouse Gases Program. These voluntary programs have not succeeded in reducing or even stabilizing total U.S. greenhouse gas emissions. Although program participants committed to reduce certain portions of their carbon dioxide emissions, many entities had substantial increases in their overall emission levels. This rise in emissions was due to increasing demands for their products and services. According to the Pew Center on Global Climate Change, total greenhouse gas emissions have increased approximately 12 percent between the years 1990 and 2001. Emissions are projected to increase another 42 percent by 2020. The United States needs to address climate change in a significant way. We must implement a responsible and reasonable policy to stop greenhouse gas emissions from rising.

Under the Lieberman-McCain amendment, the United States would adopt a uniform, Federal program to stabilize greenhouse gas emissions. The amendment would require all major electric power, industrial, or commercial facilities that emit over 10,000 metric tons of greenhouse gas per year to take action. A program that uses emissions trading would provide these sectors with the flexibility needed to determine the most cost-effective and practical approaches to stop greenhouse gas emissions from rising. The U.S. has already demonstrated that a cap-and-trade system can be both environmentally and economically effective. The primary example is the Acid Rain Program which was established in 1990 to reduce emissions of sulfur dioxide.

Four U.S. corporations are already taking the lead in reducing greenhouse gas emissions. BP, British Petroleum, the largest oil and gas producer in the U.S., and DuPont, a $24 billion/year corporation that produces chemicals, materials, and energy, have already taken on emission reduction strategies. Both BP and DuPont have claimed to save millions of dollars in the process. Cinergy, the largest burner of coal in the U.S., has pledged to reduce its greenhouse gas emissions by 5 percent with the belief that they can meet this target at no additional cost to the company or ratepayers. American Electric Power, the largest emitter of carbon dioxide in the U.S., has joined the Chicago Climate Exchange. This marketplace trades greenhouse gas emissions with a target of reducing emissions. The Governors of ten northeastern States developed a regional greenhouse gas trading program because of the lack of national leadership on climate change. Their program requires a mandatory cap on power plants in July of this year. In total, carbon reduction initiatives are already underway in 27 States.

We must take this first, critical step to stabilize greenhouse gas emissions in the United States. If we fail to address the issue of climate change now, the U.S. may have to face catastrophic and expensive consequences. A relatively small investment today is far wiser than spending vast amounts in the future to replace destroyed homes and infrastructure, restore altered ecosystems, and reinvest in collapsed agricultural economies. Scientists at MIT, the Massachusetts Institute of Technology, conducted a study that analyzed the proposed costs of the Lieberman-McCain amendment to S. 139. They estimated the cost to be less than $20 per household per year.

The United States has the technological capabilities and intellectual resources to lead the world in an effort to reduce future greenhouse gas emissions. The Lieberman-McCain amendment demonstrates to the international community our serious commitment. The European Union, EU, has recently adopted a mandatory cap and trade program with a carbon dioxide reduction target of 8 percent by the year 2012. The proposed amendment only calls for a stabilization of U.S. greenhouse gas emissions. The compliance costs of the EU greenhouse gas reduction program are expected to total less than 0.1 percent of their GDP, Gross Domestic Product. Therefore, the EU predicts a minimal effect on their economic growth even under a rigorous approach.

I thank Senators LIEBERMAN and MCCAIN for recognizing the importance of climate change and taking the lead on legislation to stabilize greenhouse gas emissions. Research shows that our climate is changing due to human activities. It is clear that piecemeal, voluntary approaches have failed to reduce the total amount of greenhouse gas emissions in the United States. Now is the time to send a strong message that the U.S. is serious about the impacts of climate change. A policy of inaction on climate change is not acceptable and will cost the United States more than preventive policies. I firmly believe that we can have economic growth while protecting the global environment. I urge my colleagues in the Senate to support the Lieberman-McCain amendment to S. 139.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I yield 10 minutes to the Senator from Alabama, Mr. SESSIONS.

Mr. SESSIONS. Mr. President, I thank Senator INHOFE for his leadership on this issue. I recall several years ago, as a member of the EPW Committee, we served on the Clean Air Subcommittee and had field hearings and took testimony from a number of the scientists who are still speaking out and discussing the issue of global warming. I remember Dr. Lindzen from Harvard sat back in one of our hearings, kind of relaxed, and he said: We can debate this global warming, but even if we do, the things people are proposing are not going to have any significant impact on the global climate situation in which we are involved.

I do think, as Senator INHOFE has ably pointed out, a lot of the scientific data is being disputed. One of the issues that I know about personally and have heard this witness, Dr. Christy, testify about, is the satellite data. Dr. John Christy at the University of Alabama at Huntsville studies NASA scientist space data, temperature readings in the upper atmosphere. According to the models that were supposed to predict global warming, those models called for the increase in temperature to show up first in the upper atmosphere.

According to his rigorous analysis of the upper atmosphere temperatures, they have not increased in the last 15 or 20 years—maybe just the most minute fraction, but probably not any.

So this contradicts some of the things we are hearing. I don't know what changes are out there in the environment. We know a lot of factors are involved.

Professor Sallie Baliunas from Harvard, an astrophysicist, has recently discussed sunspots and Sun activity, and charts that show that tend to correspond with increasing or falling temperatures.

I don't know. It could be increasing carbon dioxide, increasing soot, increasing other materials that have some impact on the environment, although it does appear—our best science shows in the early middle ages temperatures were hotter than they are today, before we had a lot of the things that people are complaining about.

What I want to get around to saying is I believe there are legitimate disputes about the validity and extent of global warming. There is little or no dispute that what the United States

does unilaterally is not going to have any impact on the situation that is happening in our global environment. We have countries, like India with a billion people and China with a billion people, that are growing dramatically and have almost no environmental controls and are not going to participate in environmental controls. What we do here, whether or not we can spend billions and billions of dollars, what impact will we have here? Not much, I submit.

I remember all these world gurus that met in Kyoto and they passed the Kyoto resolution and they wanted us to adopt the Kyoto accords. That was wonderful, to be at this conference and everybody got excited, apparently, and passed this resolution and asked all the nations to sign.

We studied that here in the United States. What they wanted to do, and this was in the late 1990s, I believe 1997–1998, they wanted the United States and the other countries to commit to reducing greenhouse gases 7 percent below 1990 levels by 2012.

Far from beginning to show a reduction, by the late 1990s we were 10 or more percent above the 1990 level. Projections of increased energy demands and other projections raised a clear indication that we were going to continue to show increases and not declines.

What I would say is that was ludicrous. It was totally unrealistic, could not be accomplished. Yet these so-called scientists were saying you are not a good person, you are not politically correct if you didn't agree to the Kyoto Treaty. So we had a big debate about it. We talked about it, and it became so apparent that it was so bogus and so unrealistic that when we voted, it was 97 to nothing, as I recall, to reject the Kyoto Treaty.

Senator MCCAIN and Senator LIEBERMAN have come back with a more modest proposal. One thing I would have to say about it is that the Kyoto accord at least proposed to bring other countries on board, to have them agree to these reductions. This one is a unilateral economic action, I suggest. It says that by 2010 we ought to be at 2000 levels. The projections for growth indicate that would be very costly to meet. The Department of Energy research group suggests that by 2010 it would create, that year alone, a $45 billion cost on this economy. Make no mistake, $45 billion is real money, and it comes right out of this economy. It is sucked right out of the growth of this economy. It adds to the bill of every business, every homeowner, and if it drives up the cost of natural gas as people say, it is going to take money out of the pockets of fixed-income Americans all over this country.

We cannot expect that there will be no cost for this.

The question is, Will the cost be worth the benefit? I suggest that President Bush has it right. Let us not focus on CO_2. Carbon dioxide does not hurt you. We have to have it in the atmosphere. It is what plants breathe. In fact, the more carbon dioxide that exists, the faster plants grow. Plants will grow in desert environments much better with higher levels of carbon dioxide. It does not hurt our lungs. It doesn't hurt our health. It does not injure. Sulfur dioxide, mercury, other particulate pollutants are harmful to us. Also, we need to focus on those issues. As we focus on those issues, we will reduce CO_2 at the same time and perhaps that will play a role in our meeting some of the goals we are facing today.

But to commit ourselves to a political goal of reducing a gas that is not harmful, and reducing it by amounts suggested here that will have no impact on global warming but a significant adverse impact on our economy—which means jobs, jobs, jobs—is a mistake.

We have people in this body who say: Oh, we have too much unemployment; we have too many people who can't find work; we are seeing too many jobs go over to China. Do you think China is going to be meeting these requirements? Do we think they will be spending $45 billion or more to get some minor increase that we were talking about here? I don't think so.

This reduces our competitiveness in the world marketplace. It hurts us as we seek to maintain our manufacturing. It hurts our people on fixed incomes. It increases their cost of heating and cooling their homes. It is a big-time mistake. We do not need to make this mistake.

I don't believe anybody will stand on the floor of this Senate and suggest that meeting CO_2 emission goals will help this economy. It can only hurt this economy.

Mr. MCCAIN. If the Senator will yield for a question, I will stand on the floor of the Senate and ask what climate change is doing to future generations of Americans—the fishing industry and the farming and the climate and the forest fires that are taking place in California as we speak. If the Senator will yield for a question, I will stand up—

Mr. SESSIONS. I will not yield for a question. I have accepted the speech of the Senator while I held the floor. I am pleased to do so. He is a great advocate.

But I repeat: It is going to hurt this economy. And everyone knows it. It is going to drive up the cost of energy. When you do that, it drives out jobs. It will be a unilateral economic disarmament—a unilateral act by this country in which other nations will not be participating. It will not help us.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SESSIONS. Mr. President, I thank the Senator for my time. I appreciate the commitment of the Senator from Arizona, and I thank the Senator from Oklahoma, Mr. INHOFE, for his leadership and support him on this side.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I congratulate the Senator from Alabama for smiling his way through that intensive interrogation by the Senator from Arizona.

I now yield 10 minutes to the Senator from New York whose support for our amendment I greatly appreciate.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. I thank the Senator very much.

I am proud to rise in support of the bipartisan climate change legislation offered by Senators LIEBERMAN and MCCAIN. I will be brief in my remarks, because I believe that the sponsors of the amendment have eloquently made the full case for the legislation. But this is a very important issue, and I did not want to miss the opportunity to voice my support.

Climate change is greatest environmental challenge that we face. Its effects will unfold over decades and will touch every corner of the globe. I think the time to act is now.

First, I want to briefly touch on the science. Many of the details remain to be filled in, and I support further climate research so we can refine our understanding of how human activities are affecting the climate system. But there is already a strong scientific consensus that supports action now. The most definitive recent reports were issued by the Intergovernmental Panel on Climate Change and the National Research Council in 2001. In brief, the findings of those reports include the following:

No. 1, anthropogenic climate change, driven by emissions of greenhouse gases, is already underway and likely responsible for most of the observed warming over the last 50 years—the largest warming that has occurred in the Northern Hemisphere during at least the past 1,000 years;

No. 2, over the course of this century the Earth is expected to warm an additional 2.5 to 10.5 °F, depending on future emissions levels and on the climate sensitivity—a sustained global rate of change exceeding any in the last 10,000 years;

No. 3, temperature increases in most areas of the United States are expected to be considerably higher than these global means because of our Nation's northerly location and large average distance from the oceans;

No. 4, even under mid-range emissions assumptions, the projected warming could cause substantial impacts in different regions of the United States, including an increased likelihood of heavy and extreme precipitation events, exacerbated drought, and sea level rise;

No. 5, almost all plausible emissions scenarios result in projected temperatures that continue to increase well beyond the end of this century; and

No. 6, due to the long lifetimes of greenhouse gases in the atmosphere,

the longer emissions increase, the faster they will ultimately have to be decreased in order to avoid dangerous interference with the climate system.

These are disturbing findings from the most authoritative scientific sources we have. And the findings are further bolstered by an October 1, 2003, letter to the U.S. Senate signed by over 1,000 leading scientists.

So opponents who argue that we need more study before we act are simply wrong. We need to know more, but we already know enough to take initial steps to reduce the greenhouse gas emissions that are causing climate change.

I would add that we are already seeing the effects of climate change. Glaciers are retreating all over the world. In March 2002 the Larsen Ice Shelf on the Antarctic peninsula completely broke off and broke up. The glaciers in the mountains in the tropics are rapidly melting; e.g., the snows of Kilimanjaro will be gone by 2015. One of my staff members took a photo of himself on the summit in 1970 next to a 20 foot high glacier at Uhuru Point; 29 years later his daughter was at the same Uhuru Point and only a trace of ice was left.

We are already feeling the effects of climate change. And the scientific consensus is that unless we act to reduce emissions, the planet will continue to warm over the next century, with widespread and potentially devastating effects. These potential effects include more frequent extreme weather events, the wider spread of diseases such as West Nile, Eastern Equine Encephalitis, and malaria.

As a Senator from New York, I am concerned about coastal flooding if sea levels were to rise, and how that would affect communities on Long Island. I am concerned about how warming will affect the Adirondacks, where tourism and a way of life depend on cold and snow in the winter. I am concerned about impacts on New York farmers. But I am also concerned about impacts in other parts of the country and around the world.

I am in wholehearted support of the effort undertaken by Senators LIEBERMAN and MCCAIN to address this issue of climate change. I have to say I find it somewhat bewildering, this note of fatalism, this sense of pessimism, this defeatism I am hearing from the other side of the aisle.

No. 1, it is a real problem. You can say that it isn't. You can say it over and over again. It is a real problem, and it is a problem that is getting worse because we failed to attend to it.

But what bothers me is this idea that somehow America—the most innovative, creative nation the world has ever seen—cannot cope with this problem. This defeatism, this pessimism, this fatalism that I hear from the opponents is fundamentally un-American.

We have a problem. We should get about the business of addressing the problem.

What Senators MCCAIN and LIEBERMAN have done is to give us a roadmap to doing that. It may not be everything that many advocates would wish for, but it lays out a marker, and, more than that, it fulfills for me the traditional sense of how Americans respond in the face of a difficulty.

This legislation is not only necessary but I think it provides an opportunity. Yes, in the short run there may be some adjustments that are needed, just as there always are when we have to face inevitable or necessary change.

We are confronting the greatest environmental challenge when we talk about global climate change. There can only be one conclusion: Because of human activity, we are warming the Earth.

Some might say, ''Well, it doesn't seem that bad to me,'' or, ''The consequences don't seem that dire.'' But I believe we have disturbing findings from the most authoritative scientific sources that argue otherwise. The most definitive recent reports were issued by the Intergovernmental Panel on Climate Change and by the National Research Council in 2001.

I remind my colleagues that the National Research Council study was requested by the Bush administration. And it fundamentally confirms the results of the Intergovernmental Panel on Climate Change.

What was the response of the administration? Kill the messenger. Hide the findings. Order EPA to take the information about global climate change out of its review of the status of the environment.

You can deny a problem, you can ignore it, and you can delude yourself that it is not an issue. But I don't think that any longer is sustainable. It is not intellectually honest, and it is not politically defensible.

Opponents who argue that we need more study before we act are simply wrong. Yes, we need to know more, but we already know enough to take initial steps to reduce the greenhouse gas emissions that are causing climate change. That is what this legislation proposes to do.

There are so many facts that support the evidence of climate change—whether we talk about the Larsen Ice Shelf on the Antarctic peninsula breaking off and breaking up or whether we talk about the snow at Kilimanjaro.

I want to show this one picture because it is so telling. It comes from the personal experience of one of my fellows who is working with me on my staff. He took a photo of himself on the summit of Kilimanjaro in 1970 next to a 20-foot-high glacier at Uhuru Point. And 29 years later, his daughter was at the same point and there was only a trace of ice left. Maybe people climbed up there and carted the ice off. I don't know. Maybe that became some kind of economic activity that the folks in Tanzania decided to pursue.

That is not what happened. I think what happened is we have evidence in the most dramatic way possible of the effects of 29 years of global warming. The scientific consensus is clear: That unless we act to reduce emissions, the planet will continue to warm over the next century, with widespread and potentially devastating effects. We have heard some of those mentioned already.

I listened carefully to the Senator from Maine talking about the change in everything from sugar maple to the potato crop in her State. I listened to my colleague from Hawaii, where we really began to acquire the evidence and understanding of global climate change.

I worry about disease. I think it is indisputable that we are seeing disease move up in latitude. Diseases such as West Nile, eastern equine encephalitis, and malaria are now found at latitudes that they have never been before.

As a Senator from New York, I am concerned about coastal flooding, if sea levels were to rise, and how it would affect the communities I represent and that my colleague from Connecticut represents at Long Island Sound and along the ocean.

I am concerned about the warming effects on the Adirondacks; I am concerned about the effects on New York farmers; I am concerned about the economy, if we do not act.

What is clear to me is that we have extraordinary economic opportunity. Since when did Americans say in the face of a challenge, Oh, my goodness, we can't admit it, we can't confront it, because we don't know how to deal with it economically?

We could be making money and creating jobs if we took seriously the opportunities for alternative energy and conservation. The fact that we do not is because of the stranglehold special interests who are committed to always producing energy have on this body and on the administration.

Let's be clear, we put out most of the greenhouse gasses from our country and we have the technological know-how, we have the understanding that would enable us to be the leaders in addressing this issue. That is why the bill offered by Senators MCCAIN and LIEBERMAN is so timely. Simply put, we would stabilize greenhouse gas emissions at 2000 levels by 2010.

Think of the energy we would unleash among our entrepreneurs if they got the go-ahead to deal with this challenge. A market-driven system of greenhouse gas tradable allowances would exempt farmers, residences, and auto manufacturers, and that would give us a chance to go forward to try to find solutions to the challenge of addressing greenhouse emissions. We know this cap-and-trade approach can enable cost-effective reductions in emissions. We have seen it in the implementation of the acid rain provisions of the 1990 Clean Air Act. We know that has worked. Why do we turn our backs on what we know works?

It is amazing to me how often the Congress, Capitol Hill, and Washington

end up becoming evidence-free zones because people do not want to deal with what the evidence demonstrates. We know the cost for this would be minimal.

Let's be honest. The science is clear. The opportunities are clear. This bill represents a modest and flexible first step. Despite the assertions of opponents, compliance costs will be minimal. The United States needs to regain leadership. We need to take responsibility. It gives a chance, then, to go to the rest of the world to try to build an international consensus. In the absence of some kind of protocol or treaty, we will be choking to death on the emissions from countries such as China and India as their standard of living rises. Now is the time to act. We owe it to our children and our grandchildren and generations beyond.

I thank the two sponsors for giving us the opportunity to go on record on the right side of history.

Ms. COLLINS. Mr. President, I rise to express my support for the goal of reducing greenhouse gas emissions to 2000 levels by the year 2010.

The scientific evidence that people are causing the Earth to warm grows more robust each year. According to the National Academy of Sciences, ''Greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. . . .'' Indeed, a new scientific analysis shows that the Earth is warmer now than it has been in the last 1,000 years.

Perhaps most alarming is the rapid warming that is occurring in the Arctic. According to data released last week by the National Aeronautics and Space Administration, Arctic temperatures are currently increasing at a rate of two degrees per decade, and Arctic ice is melting at a rate of 9 percent per decade. Scientists are now projecting that the Arctic Ocean could be ice-free in the summer by mid-century. Due to the importance of the Arctic Ocean to the world's climate as a whole, this prediction is truly alarming.

To be sure, there are still numerous uncertainties. Researchers at the University of Maine have pointed out that past changes in the climate have tended to occur very abruptly, but we do not know if future changes in the climate will also occur in abrupt shifts. Nor do we know how quickly future warming will occur. Due to these uncertainties, I believe we should not only direct more attention to better understanding the climate, but also take prudent actions to reduce the risk of disruptive climatic changes.

The McCain-Lieberman Climate Stewardship proposal would reduce U.S. greenhouse gas emissions to 2000 levels by the year 2010. In light of the climate changes observed to date and the potential risks of even greater and more abrupt changes, I support this goal. It is a prudent step in the right direction, and I intend to vote in favor of the McCain-Lieberman amendment.

Although I am in favor of the Climate Stewardship Act, I think more thought needs to go into the exact actions by which we reach the goal of reducing emissions to 2000 levels by 2010. These are important decisions, and Congress should not allow such important decisions to rest in the hands of the agencies. I support concrete, certifiable reductions, and these reductions should come primarily by increasing the efficiency of our economy and further developing our renewable energy resources. Increasing CAFE standards for automobiles, efficiency standards for air conditioners and other appliances, and reducing power plant emissions are just a few examples of concrete steps that we can take to reduce greenhouse gas emissions.

The United States has made tremendous strides in increasing the energy efficiency of the economy. In doing so, we have averted millions of tons of greenhouse gas emissions. With further steps in improving our energy efficiency, the McCain-Lieberman target is imminently attainable. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I yield 10 minutes to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, I have enjoyed listening to this debate either in person or over the television. I will not try to add to it with a plethora of statistics, forecasts, or predictions. Rather, I want to deal with some of the statements that have been made including some we have just heard from the Senator from New York and try to do a little math of a very simple and direct kind and ask a few questions.

First, the Senator from New York said the United States produces most of the greenhouse gasses. My understanding is the correct number is 25 percent of the greenhouse gasses produced in the world as a whole. That is the largest of any single country. It does not constitute most. But it is a plurality and pluralities win elections so that puts us in first place.

Now let us assume for the sake of following this through that we achieve a savings of 10 percent. I am not sure we will. No one is really sure in all of the predictions, dire and rosy, that are made with respect to this legislation how much the savings will be, but we will pick a number easy to calculate, 10 percent. That means, if the laws of mathematics have not changed, we would reduce the world emissions by 2.5 percent because 10 percent of 25 percent is 2.5 percent.

The question then arises, will the rest of the world stay static while we reduce the total by 2.5 percent or will a combination of China, India, Russia, Australia, what have you, increase the total by 2.5 percent so that the net effect in the atmosphere of America doing this is zero. That is a very likely scenario. The net effect of the United States doing this as far as manmade emissions are concerned would be zero. Yes, we could reduce theoretically ours by 10 percent. That would be made up by the rest of the world.

The question arises, how much benefit is there to see to it that the overall world situation is as it is now with the United States producing no significant impact on the total?

The next question, what do we do if we reduce it by 10 percent? How do we do that? Obviously, we will need the power. Indeed, we will need substantially more power between now and the year 2010 if we are going to reduce the emissions that come from fossil fuel to generate the power we will have to go someplace else. There are a variety of places we can go.

One we hear often is we should use natural gas. We should replace coal with natural gas. That is a good idea. But let us understand something right now. We have in the United States currently a shortage of natural gas. As Alan Greenspan pointed out, that is one of our major economic challenges. He also has pointed out, natural gas is the one fossil fuel we cannot import. In order to import natural gas we have to have a pipeline, unless you liquefy it, and that is tremendously expensive, and we do not have the ports available to receive natural gas in liquefied form. The only places we can import natural gas are Mexico and Canada, and we are doing that.

If you look at a geological chart of the United States you find there is plenty of natural gas in the United States, but a very large percentage of that is on public land. Now the people who are telling us we must reduce greenhouse gas, namely the environmental groups, are the same people who are telling us we cannot drill for natural gas in the United States because that somehow will desecrate the public lands. I am not sure the land cares whether there is a drilling rig on it or whether there is a pipeline running across it, but certainly the Sierra Club cares. They say absolutely no drilling for natural gas on public lands.

If we cannot get to the natural gas, we will continue to use coal. Let's use clean coal. We have enough clean coal in the State of Utah to heat, light, drive the city of San Francisco for the next 300 years. We proposed mining that. Clean coal, low-sulfur coal would significantly reduce greenhouse gas emissions. Who got very upset at the idea we might start to use clean coal? The Sierra Club. They got President Clinton to declare a national monument right on top of the potential clean coal to make sure there would never be any coal mined from that place because environmentally they do not want any coal mines.

Well, we cannot use natural gas because we cannot get it off our public lands. We cannot use the clean coal in the West because we cannot get it off

our public lands. What is our alternative? Nuclear. That will do it. That is what they do in Europe. That is why Europe is in favor of Kyoto because they do not use fossil fuel to generate electricity; they use nuclear power.

So let's have nuclear plants all over the United States in order to produce the 10 percent reduction called for in this bill. Is the Sierra Club ready to endorse and embrace nuclear? They will not let us drill for natural gas. They do not want us to use the clean coal and they absolutely do not want us to build nuclear plants.

All right. Where else do we go? Well, in the West, we get a portion of our power from hydroplants. Dams have been built to store water. And as the water tumbles down the front of the dam, why, we get power. And it is the goal of the Sierra Club, and other groups that are supporting this bill, to dynamite these dams. They want to drain Lake Powell and dynamite the dam.

It is very interesting, if I could make a quick historic aside, when my father was in the Senate, and they were talking about building the Glen Canyon Dam that would produce this power, the Sierra Club opposed it and said: We will never, ever need that much power. But, they said, if for some reason we are wrong, and we should need that power, there is no point in building the dam to provide the power because look at all the coal that is there. The coal is the coal that they moved to make sure would never get mined.

I could embrace the idea of reducing the emissions in a test fashion to see if it did indeed have any impact on global warming if I could see the way clear to produce the power some other way than the way we are doing it now.

I would say to the Senator from Connecticut, who has excellent contacts in the environmental world, if he would go back to those who are supporting this bill and say to them, ''In return for support of this bill, will you agree to drill for natural gas on public lands, to exploit low-sulfur coal where it exists on public lands, and to explore the possibility of more nuclear plants so that we don't become dependent on fossil fuel?'' I might very well be interested in cosponsoring and voting for this bill.

But until those who are driving the debate publicly are willing to address the question of how you replace the sources of power that would have to be eliminated if this bill should pass, I intend to vote against the bill.

I yield the floor.

Mr. KYL. Mr. President, in 1997, the Senate unanimously passed the Byrd-Hagel resolution that stated that the Senate would reject any climate agreement that did not mandate ''new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period'' as the United States or that ''would result in serious harm to the economy of the United States.'' The Kyoto Protocol failed to meet these conditions, and consequently, President Clinton never submitted the protocol for Senate ratification, nor has President Bush.

The initiative before us, The Climate Stewardship Act of 2003, also fails to comply with the Byrd-Hagel resolution. First, it unilaterally commits the United States to carbon emissions restrictions, and second, it puts into place the regulatory structure for future carbon dioxide emissions reductions. This initiative represents the first phase in a long-term effort to reduce carbon dioxide emissions that would ultimately inflict serious harm on the U.S. economy. There is no need at this time to go down that path.

There are many reasons why the U.S. should avoid committing itself to carbon dioxide reductions. First, carbon dioxide is the unavoidable consequence of burning carbon-based fuels such as coal, oil and natural gas. The only way to get energy from a carbon-based fuel is to force the carbon to combine with oxygen through burning it. The result of that process is carbon dioxide, an odorless, colorless, non-toxic gas that sustains life. Reducing carbon dioxide to levels that would be climatically meaningful would mean using something other than coal, oil or natural gas to fuel our economy. Unfortunately, there are no economically viable alternatives to replace these fuels at this time.

This was made clear in a review of available energy technologies published in Science magazine in November 2002. In that review, a team of scientists many of whom are climate alarmists—concluded that our fossil fuel-dominated energy system ''cannot be regulated away'' and that we must instead rely on ''the development within the coming decades of primary energy sources that do not emit carbon dioxide to the atmosphere.''

The review notes that the United Nations' Framework Convention on Climate Change calls for a stabilization of greenhouse gases at levels that avoid ''dangerous anthropogenic [man-made] interference with the climate system.'' Nobody really knows what that level is, but the authors of the study argue that stabilization at levels as low as 450 parts per million may be necessary to do this. The review states that, ''[t]argets of cutting to 450 parts per million . . . could require a Herculean effort.'' And, ''[e]ven holding at 550 parts per million is a major challenge.'' Incidentally, we are currently at 370 parts per million, so the Herculean effort would still result in carbon dioxide levels significantly higher than we have now.

Now I realize that the initiative before us falls well short of stabilizing atmospheric emissions at 450 or 550 parts per million. But let me be clear that if the Senate passes this initiative it would set a precedent that would lead to future, more costly reduction requirements. Currently, the executive branch has no authority to regulate carbon dioxide emissions. Indeed, the Clean Air Act expressly forbids the executive to regulate carbon dioxide emissions. This initiative would create the architecture for a series of increasingly stringent controls on energy use. It is widely acknowledged that if indeed global warming is a serious problem, that even the Kyoto Protocol is woefully inadequate to meet the challenge. As noted by the EU, and elsewhere, ''avoiding dangerous interference with the climate system . . . would require substantial (50 to 70%) global reductions in total greenhouse gas emissions.'' So this precedent-setting initiative would be the first stage of what appears to be a monumental and extravagantly expensive undertaking, and the levels of carbon dioxide in the atmosphere would still be higher than they are now after all our efforts and all the cost.

The Science review notes that the world's power consumption is about 12 trillion watts, 85 percent of which is supplied with fossil fuels. By 2050, total energy consumption will be as much as three times the amount currently produced by fossil fuels. The review states: ''Energy sources that can produce 100 to 300 percent of present world power consumption without greenhouse emissions do not exist operationally or as pilot plants.''

The authors conclude that the ability to stabilize greenhouse gas emissions without seriously damaging the economy is not possible at this time: ''CO_2 is a combustion product vital to how civilization is powered.'' All of the possible alternative fuels ''have serious deficiencies that limit their ability to stabilize global climate.'' The authors simply hope that we can ''develop revolutionary changes in the technology of energy production, distribution, storage, and conversion.''

In other words, the means to meaningfully reduce carbon dioxide emissions are not available, suggesting that the economy would suffer from a premature attempt to reduce emissions.

How would this initiative affect the U.S. economy? The Department of Energy's Energy Information Administration makes it quite clear that policies that regulate carbon dioxide emissions would most heavily impact coal, which is the United States' most plentiful and affordable domestic energy source, and is the most important fuel in electricity generation. Currently, 52 percent of America's electricity needs are generated from coal. And while that share is projected to decrease somewhat over the next 20 years, total coal use may well go up to keep up with growing electricity demand. It doesn't make a lot of sense to target our most important and plentiful domestic energy resource.

Incidentally, my State's only significant coal reserves are located on Black Mesa and the mine there is a major employer of Native Americans from the Hopi Tribe and Navajo Nation. This

mine also supplies secure, affordable energy for millions of Southwest families.

There is also a lot of concern up here about the decline in manufacturing jobs nationally. But the Energy Information Administration also makes it clear that energy intensive manufacturing industries would also be harmed by policies that regulate carbon dioxide.

Finally, we are not the only nation to come to the realization that Kyoto-style policies carry a hefty price tag. Russia made it quite clear at a recent United Nations' World Climate Conference that the Kyoto Protocol does not serve the economic interests of her people, and therefore will not be pursuing greenhouse emissions reductions. Andrei Illarionov, President Putin's chief economic advisor has stated that Kyoto is incompatible economic growth, noting that 40 years of data from 150 countries shows that GDP growth is highly correlated with increased carbon dioxide emissions. Thus Kyoto is incompatible with Putin's goal of doubling Russia's economic growth over the next 10 years, which would put the country slightly above its Kyoto target. Moreover, Illarionov stated: ''But Russia isn't going to stop at this level, so the carbon dioxide level will be much higher.'' He concludes that supporting Kyoto would mean ''dooming the country to poverty, backwardness and weakness.''

And that is the message I want to leave with my colleagues. Engaging in Kyoto-style emission reduction programs are incompatible with economic growth at our current levels of technology, and to act now without sound scientific justification would be foolish. I urge my colleagues to vote no on S. 139.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I would like to inquire as to the amount of time we have left on our side.

The PRESIDING OFFICER. There are 30 minutes 35 seconds.

Mr. INHOFE. All right. Mr. President, I was telling my good friend from Connecticut a few minutes ago, if we keep hearing it repeated that ''the science is real, the science is real, the science is real,'' sooner or later they are going to start believing it. Nothing could be further from the truth.

Let me just say, first of all, reference was made by one of the speakers to the Byrd-Hagel resolution that was passed 95 to 0. What did that resolution say? The resolution said, if there is economic damage or if the developing countries do not have to do the same thing the developed nations do, then we are not going to ratify the treaty. That is exactly what they came back with.

So here we have a situation now that is even worse because we are talking about passing a bill that would put the United States of America in a position where they have to do something that not only the developing nations do not have to do, but even the developed nations do not have to do.

So I can tell you right now, there are a lot of people in China who are rejoicing, thinking: Boy, all those American jobs are going to come to us if they pass this. In India, they are rejoicing; in Brazil, the same thing. In South Korea, President Roh, and President Vincente Fox of Mexico would be delighted to think about the great jobs that would go there—many of which have already gone there because of some of our overregulation in this country.

Like Kyoto, this is an extreme approach. I am not going to try to figure out which bill we are talking about. The McCain-Lieberman bill has been around now for months. And now, at 11:53 this morning, they changed it. I don't know what was changed.

But I would say this: This is a cartoon that appeared that I think you will enjoy, I say to Senator LIEBERMAN. It is the camel's nose under the tent, the fact that if you get just a little bit here, then all of a sudden the rest of it will come in. And the rest of it is the body of Kyoto.

Now, why do I say that? I say that because they are actually saying one thing. I don't care how they change their bill, they are changing the policy of America to make us believe and have, as a new policy, that CO_2 is a pollutant. CO_2 is not a pollutant. Other things are pollutants.

In fact, we have the Clear Skies Act which the President of the United States, President Bush, is promoting. It has the largest reduction in emissions that any President has ever promoted, with a 70-percent reduction. And those are in sulfur dioxide and mercury.

But in this case here, just to show you that nothing really has changed by the last minute change, these features—the covered gases, emission caps, timetables, emissions trading, wealth transfer, emissions reporting, sequestration and sinks, verification, and future racheting—those are the same things that are in the current bill that appeared in the bill mysteriously at 11:53.

Now, I would like to suggest we have heard a lot of hysteria tonight. We are going to hear it tomorrow for 2 more hours—no, 1 more hour. That time is going to be equally divided, and they are going to be talking about the horrible things that are going to happen, the ice caps are going to be breaking, all these things.

I would suggest to you, Mr. President, we heard the same thing a few years ago. Looking at a couple magazines—this is Science Digest. They came out, and they said: ''Brace Yourself for Another Ice Age.'' The same people who are talking about warming today were talking about bracing yourself for another ice age. If there were time, I would read the script. It is really enlightening to do so. I would encourage my fellow Senators to do that.

Then, Time magazine came out, and they have ''Another Ice Age?'' They talked about these horrible things that are going to happen: We are not going to be able to grow anything anymore. We are going to have to shut down businesses because we are no longer going to be able to function because we have another ice age—not global warming, global cooling.

Then along came Newsweek, and it says: ''The Cooling World.'' They talk about the horrible things that are going to happen.

So it seems to me it is the strategy of those individuals who are catering to the extreme environmental left to try to scare people. And there is no reason to do that.

Now, I think probably the most significant thing I am going to be talking about tonight is to try to make people realize that if you say something enough times, as we keep hearing—as I mentioned a minute ago, about the science being real, about it is proven, and all that—sooner or later people believe it. One reason is we do have a liberal national media, and they would like to have people believe that.

Now, we heard a lot of discussion about the National Academy of Sciences. I would like to quote Dr. Frederick Seitz, who is the former president of the National Academy of Sciences, and 17,800 other independently verified signers.

Now, the Senator from Arizona talked about the 1,010 scientists. We are talking about 17,800. This is what the Oregon petition said. This is a petition that was put together by the lead, Dr. Frederick Seitz, the former president of the National Academy of Sciences, along with 17,800 other signatures:

> We urge the U.S. government to reject the global warming agreement that was written in Kyoto, Japan, in December, 1997, and any other similar proposals. The proposed limits on greenhouse gases would harm the environment, hinder the advance of science and technology, and damage the health and welfare of mankind.

This is the former president of the National Academy of Sciences. He goes on to say:

> There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gases is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produce many beneficial effects upon the natural plant and animal environments of the Earth.

Now, this is significant. We are talking about not only is CO_2 not a pollutant—which it is not a pollutant—but it is a fertilizer. It is something that helps us and something that would be to the benefit to have more of, not less.

Now, in addition, there are over 4,000 scientists, 70 of whom are Nobel prize winners, who have signed the Heidelberg appeal.

The Heidelberg appeal says: No compelling evidence exists to justify controls of anthropogenic greenhouse gas

emissions. Anthropogenic is the term meaning ''man-made.'' We keep hearing the Senator from New York talking about the man-made gases. It does not exist. These are 4,000 scientists. Look at some of the scientists we are talking about. They are on this list. It is too many to delineate at this time. The bottom line is that the science just flat is not there.

Ninety percent of the science—in fact, 100 percent of the science I have heard the other side talk about tonight is all science that they allege happened, but it was all before 1999. What we are talking about are things that have happened since then. There has been a turnaround.

Last July 8, James Schlesinger—we all remember him; he certainly is no Republican—the Energy Secretary to former President Carter, said:

> There is an idea among the public that the science is settled. That remains far from the truth.

He goes on to talk about the fact that the science is not sound behind the myth, the hoax of global warming.

It is important to realize that the IPCC, which is the Intergovernmental Panel on Climate Change, came from the United Nations with the idea that they are making the recommendations. The lead scientist behind that was a scientist named Dr. Michael Mann.

What we have done here is talk about what has happened in terms of the science that has come from this recent 2003 science, as opposed to what came under Michael Mann or the the Intergovernmental Panel on Climate Change. One is the detail, less hemispheric, and the information that they used, the age of the data. Under Michael Mann it was older, 1999 or before. The newer is after the IPCC. This is all new stuff. I will submit this for the RECORD because it is all very self-explanatory.

Several times reference was made by the distinguished Senator from Connecticut to MIT and what MIT is saying to us. I would like to quote Dr. Richard Lindzen, an MIT scientist and a member of the National Academy of Sciences. Both of these—MIT and National Academy of Sciences—were used to fortify the case that this hoax called greenhouse gas is a reality. This is what Dr. Rich Lindzen said. He has specialized in the climate issue for over 30 years. He told the Committee on Environment and Public Works, the committee I chair:

> There is a definite disconnect between Kyoto and science. Should a catastrophic scenario prove correct, Kyoto would not prevent it.

These are new discussions that are coming from scientists whose credentials cannot be questioned. Again, it is MIT science—we heard that a few minutes ago—and the National Academy of Sciences.

Dr. David Legates is director of the Center for Climatic Research at the University of Delaware. This is going back to Michael Mann, the guy who is the scientist behind the IPCC, all this stuff that we have been hearing. Dr. Legates said:

> Although [Mann's work] is now widely used as proof of anthropogenic global warming, we've become concerned that such an analysis is in direct contradiction to most of the research and written histories available. Our paper shows this contradiction and argues that the results of Mann . . . are out of step with the preponderance of the evidence.

Preponderance of the evidence, we keep hearing the other side say the science there. No one is going to question it. We are all questioning it.

This is from a publication called ''Energy and Environment,'' and this was November 15, last week. It starts talking about the flaws in the logic that were used by the Mann study. The flaws all come out. I will show the greatest flaw of all.

Let me hold this piece of paper up to this side. This is what Dr. Mann has been talking about. He referred to the famous hockey stick. Here is the hockey stick. The shaft goes along here and all of a sudden that is the hockey stick part. That is supposed to be where it is getting so warm. What he failed to do was to go back to the 1400s. If you look at this, the Earth was much warmer, the temperatures were much warmer back then than they are today by a long ways. So it is just leaving out these little convenient things that causes the truth to be distorted.

I think this is probably the most important chart. It shows you what the other side does. They will cover up the part that disclaims everything they are saying and come out and use it as evidence to promote it. I am saying that the temperatures on the Earth's surface were higher in the 1400s than they are today.

One of the most recent things that came out just in March was the Harvard Smithsonian study. This was the most far-reaching study ever made on climate change. It examined the results of more than 240 peer-reviewed papers published by thousands of researchers over the past four decades. The study covers a multitude of geophysical and biological climate indicators. They came to the conclusion that climate change is not real, that the science is not accurate. We will be coming back to that from time to time, probably tomorrow also.

This is the range of climate proxies that were used to come up with the conclusions of the Harvard Smithsonian study. If you read them all, it starts with borehole data, cultural data, glacier advance and retreats, geomorphology, all these things were used. Primarily what was used by Dr. Mann were the tree rings. And this covers every known type of a proxy that could be used. All of this was in the Harvard Smithsonian study.

So I think if you go back one more time to the chart that we had up here that shows how they are misrepresenting the data, if you stop and think about it, just use logic on things that we know. What is incontrovertible? What do we know right now that no one can question? What we know is that there was a medieval warming period. That period was around from 800 A.D. to about 1300. Then there was the little ice age that came along. The little ice age went from 1300 to 1900. Then we went into another warming period that endured from 1900 until 1940.

Something significant happened in 1940. In 1940, we started going into another cooling period. But wait a minute. The 1940s was the decade when the surge came in CO_2 emissions. That was during the time when more people were driving, and it happened right after the war. So we had the greatest increase in releases of CO_2 during that time, an 80-percent increase.

What did that do? Did that cause warming? It did not. It precipitated a cooling period that endured through the 1970s. I think if you look at that, I don't know how anyone can say that the science is at all favoring—and certainly not recent science—the concept, I call it a hoax, of global warming.

Since I gave a speech on the floor when I used these charts, which I may not have time to do tonight, there have been a lot of things that have come out. The University of Colorado researched the Arctic Circle information. To do that, they actually went down beneath the snowpack in the Colorado Rockies, and the scientists discovered fungi emitting large quantities of carbon dioxide in methane. Of course, this is totally unrelated to manmade emissions. That is not man-made. They are talking about man-made emissions. That is something that was there that was never considered until it was discovered about a month ago. They said in an article in the Washington Post, quoting the scientist:

> Indeed, scientists said, if other regions of the world have similar fungal communities thriving under the winter snows, as seems likely, climatologists will have to revise their models of global warming to accommodate fungi surprisingly massive role in the winter production of greenhouse gases, such as carbon dioxide.

It went on to say—these are the scientists now, after this discovery just a month ago:

> The global warming models can no longer ignore fungi in snowy regions and seasons as they had, scientists said, especially because about 40 percent of the landmass is covered with snow for at least part of the year.

We will revisit this issue, but there is no question that the science refutes everything the alarmists we have heard about have been trying to promote. I think something that would be more meaningful to the Members of this body would be, so what, there is. There is a preacher named Lon Solomon. On the rare occasions I am here on Sunday, I will go out to the McLean Bible Church. Right in the middle of his sermon he says: So what.

We have gone through all this, the science is flawed, it doesn't exist. So what. What is the big deal? The big deal is the economic harm that would

come to this country. Let's examine it for a moment.

Later on I will go over all of the letters, but here is what the teamsters, boilermakers, electrical workers, and others wrote me in a letter on September 9—this past September 9. This is not in 1999. They write:

Mandatory reduction requirements for carbon dioxide and other greenhouse gases would create much higher energy prices for consumers and put the economic recovery at risk, while providing little or no tangible benefit for the global environment. We, therefore, urge you to vote against S. 139, the Climate Stewardship Act.

CBO, the Congressional Budget Office—we depend on them for scoring, for coming up with numbers we use to make economic decisions in this body. They said it best:

The price increases resulting from a carbon cap would be regressive. That is, they would place a relatively greater burden on lower income households than on higher income households.

A minute ago we heard Senator VOINOVICH from Ohio. During one of our committee hearings, a guy named Tom Mullen, who is the president of Catholic Charities, testified before our committee and said:

The overall impact on the economy in northeast Ohio would be overwhelming, and the needs that we address at Catholic Charities in Ohio with the elderly and poor would be well beyond our capacity and that of our current partners in government and the private sector.

You heard about the harassment he has been subjected to because he cares—sincerely, genuinely cares—about these older people.

What about minorities? According to a study by the National Black Chamber of Commerce and the United States Hispanic Chamber of Commerce, if the United States ratifies Kyoto or passes domestic climate policies—that is what we are talking about, effectively implementing the treaty; that is their goal—the result would ''disproportionately harm America's minority communities, and place the economic advancement of millions of U.S. Blacks and Hispanics at risk.''

That was the Center for Energy and Economic Development doing a study for the Black Chamber of Commerce and the Hispanic Chamber of Commerce.

It gets down to being more specific. We find out from this study that the Kyoto issue we are talking about right now would cost 511,000 jobs by Hispanic workers and 864,000 jobs held by black workers. Poverty rates for minority families will increase dramatically, and because Kyoto will bring about higher energy prices, many minority businesses would be lost.

Here is a chart that shows the unemployment rate this study revealed. This study was sanctioned by the Black and Hispanic Chambers of Commerce because of their concern. Keep in mind all these things will happen to them, and yet there is no science or logic behind those decisions.

This information came from Pennsylvania State University. They did a study. In this study, they break it down by State as to how many jobs are going to be lost. I will point out a couple of States.

Illinois would lose, if we were to pass S. 139, 159,000 jobs. I hope the Senators from Illinois are watching right now because 159,000 jobs is not what they would want. Ironically, in Indiana, they would lose 194,000 jobs. In Michigan—and that is a big auto State—they would lose 133,000 jobs. They tell you we are going to carve out a special deal for the autos. Look, this is the nose-under-the-tent concept. They now say if we adopt this, our policy is the science is real and global warming, in fact, exists.

In Pennsylvania—and I am sure the Pennsylvania Senators are very sensitive to this—they would lose, if we pass this bill, 178,000 jobs. In the State of West Virginia, it will be 126,000 jobs; in Wisconsin, 113,000 jobs; for the interest of the Senator presiding, over 100,000 jobs in the State of Minnesota.

Something was stated by the Senator from Connecticut concerning farms. He said we are going to carve out farmers and agriculture, that nothing is going to happen there. Standard & Poor's Data Resource International did a study—again, a very recent study. They talked about what is going to happen.

Let me share with my colleagues what will happen to the agricultural families in America, according to Standard & Poor's. You can discredit Standard & Poor's, but I don't think you will get by with it. They are legitimate.

Fewer small family farms: Higher energy costs, together with the reduced domestic and export demand, would lead to a severe decline in agricultural investment and a sharp increase in farm consolidations. The number of small farms likely would decline much more rapidly than under business-as-usual conditions.

Higher production costs: Production costs would increase by up to $16 billion, an increase of almost 9 percent, and would be difficult for agriculture to pass on to the consumers. These higher production costs include a $13 billion increase in manufactured input—that is fuel, fertilizer, and chemicals—expenditures, and $1.6 billion increase in farm origin.

Lower demand for agricultural products: Weaker demand for agricultural products results both from the 1.6 percent decline in GDP and 2.4 percent decrease in consumers' disposable income. It goes on and on.

Higher food program costs: If you are not sensitive to the farmer, you ought to be sensitive to the people who have to eat in this country. For example, USDA spends more than $39 billion for six food assistance programs, including the Food Stamp Program—there are a lot of people interested in that program—and child nutrition programs. We talk about that every day.

For these programs alone, emission controls from the protocol would add 500,000 persons to the food stamp rolls and increase program costs up to 5 percent annually.

Again, this is not Senator JIM INHOFE talking. I am not qualified to make these assessments. This is a study made by a Standard & Poor's research group.

Getting back to the MIT joint program, since they have been used quite a bit, the MIT Joint Program on Science and Policy of Global Change, the average crop yield is 30 percent higher in a CO_2-enhanced world.

That is what the Senator from Utah was talking about.

I inquire from the Chair as to our remaining time.

The PRESIDING OFFICER. Three minutes and thirty seconds.

Mr. INHOFE. I reserve the remainder of my time. I am anxious to hear from the Senator from Connecticut and the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, devastating fires across California fueled by unusual drought conditions have already claimed the lives of 18 people, destroyed nearly 2,000 homes, consumed nearly 600,000 acres roughly the size of Rhode Island, and caused over $2 billion in damages. Glaciers in Glacier National Park have dwindled from 150 more than a century ago to about 35 today. Some scientists estimate that the park will have no glaciers in 30 years. An ice-dammed lake drained recently when the Ward Hunt Ice Shelf, which a century ago rimmed the entire northern coast of Ellesmere Island, broke up along the coast of northeast Canada. NASA has confirmed that part of the Arctic Ocean that remains frozen year-round has been shrinking at a rate of 10 percent per decade since 1980.

We can talk about the impact of the Kyoto Treaty, as Senator INHOFE just did. I call the attention of my colleagues to this picture. Here is the Arctic Sea ice boundary in 1979. There it is today. I am sure that that will be natural causes and have nothing to do with man-made activity, human activities, but the fact is, as the Senator from New York showed, Kilimanjaro is now without snow.

At a conference in Iceland in August, scientists told senior government officials that the Arctic is heating up fast, disclosing disturbing findings from a massive study of polar climate change. Dr. Robert Corell, who heads the Arctic Climate Impact Assessment team, said: If you want to see what will be happening in the rest of the world 25 years from now, just look at what is happening in the Arctic.

Look at what is happening in the Arctic. The destruction of 70 percent of heat-sensitive coral reefs due to increases in water temperatures places reef fisheries in jeopardy, increases coastal damages from hurricanes, and hurts local economies supported by tourism.

Researchers at the University of Texas, Wesleyan University and Stanford University earlier this year reported in the journal Nature that global warming is forcing species around the world, from California starfish to Alpine herbs, to move into new ranges or alter habits that could disrupt ecosystems.

The end result of these changes could be substantial ecological disruption, local losses in wildlife, and even extinction of certain species.

From an article in the July 2003 Journal of Hydrology: The winters in New England are getting shorter. According to U.S. Geological Survey scientists, northern New England winters have receded by 1 or 2 weeks in length over the last 30 years.

The list of what is happening goes on and on.

The chair of the Climate Research Committee of the National Academy of Sciences stated very clearly during an October 1, 2003, hearing before the Commerce Committee: The planet has a fever, and it is time to be taking action.

I caution my colleague from Oklahoma about statements that he attributes to certain members of the scientific community. Specifically, I am referring to two scientists that he referred to before, Dr. Wigley and Dr. Schneider. Dr. Wigley has written to Senators FRIST and DASCHLE about the misrepresentation of his work by Senator INHOFE. He writes a long letter: Senator INHOFE urges that Congress should put stock in scientists who rely on the most objective scientific data. He characterizes me as someone whose credentials cannot be trusted.

Mr. INHOFE. May I interrupt for a question?

Mr. MCCAIN. Yes, but not to take my time.

Mr. INHOFE. I do not believe I mentioned Dr. Wigley in my remarks. It must have been somebody else.

Mr. MCCAIN. Pardon me?

Mr. INHOFE. I do not believe I mentioned Dr. Wigley in my remarks.

Mr. MCCAIN. Dr. Wigley was mentioned by the Senator in his statement on the floor.

He goes through several misrepresentations. Perhaps the most serious one, and this is a quote from his letter: the third representation made by Senator INHOFE concerns the observed record of global mean temperature changes over the past 100 years. This data show a warming to about 1940, little change from 1940 to the mid-1970s, and then further warming. Senator INHOFE implies that these changes are inconsistent with the global warming hypothesis and with climate models. This is categorically incorrect. In order to understand these observed changes, it is necessary to consider all likely causal factors, both human-induced and natural. Human-induced factors include the warming effects of greenhouse gases and the cooling effects of sulfate aerosols. Natural factors include changes in the output of the sun, effects of explosive volcanic eruptions like Mount Pinatubo in 1991. When all these factors are considered, models give an expected pattern of 20th century temperature changes that is in remarkable agreement with the observations, and the models clearly show the three phases as noted above, in particular the leveling off, the warming trend over 1940 to 1975, turns out to be explained largely by the cooling effects of sulfate aerosols, temporarily offsetting the warming due to increasing concentration of greenhouse gases, something which was first pointed out in the paper of mine published in Nature in 1989, which has been clearly stated in a subsequent IPCC report. This remarkable agreement shows quite clearly that human factors have been the dominant cause of global scale climate change over the past 50 years, contrary to the assertion by Senator INHOFE that all observed changes are merely manifestations of natural viability.

For his part, Dr. Schneider had the following to say about Senator INHOFE's statement: It is misrepresenting my views to characterize them as even implying that IPCC is exaggerated or failed to describe the state of the science fairly at the time the assessment reports were completed in the year 2000.

So Dr. Wigley and Dr. Schneider take some exception to how their views were characterized on the floor of the Senate.

I want to point out again that the 17,000, or whoever they were, scientists or those who claimed to be scientists—and there are some interesting signatures to that—were in opposition to the United States signing the Kyoto Treaty.

I know that my colleague, the Senator from Connecticut, would like to say a few words, but I again want to read a letter from 1,010 preeminent scientists who write:

DEAR SENATORS FRIST AND DASCHLE: Two years have elapsed since the publication of the reports by the Intergovernmental Panel on Climate Change and the National Research Council on the state of the science of climate change and its impacts on the United States and the rest of the world. As scientists engaged in research on these subjects, we are writing to confirm that the main findings of these documents continue to represent the consensus opinion of the scientific community. Indeed, these findings have been reinforced rather than weakened by research reported since the documents were released. In brief—

And he goes through a number of aspects of it.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STATE OF CLIMATE SCIENCE: JULY 2003—A LETTER FROM U.S. SCIENTISTS

JULY 29, 2003.

U.S. SENATE,
Washington, DC.

DEAR SENATORS FRIST AND DASCHLE: Two years have elapsed since the publication of the most recent reports by the Intergovernmental Panel on Climate Change (IPCC) and the National Research Council (NRC) on the state of the science of climate change and its impacts on the United States and the rest of the world. As scientists engaged in research on these subjects, we are writing to confirm that the main findings of these documents continue to represent the consensus opinion of the scientific community. Indeed, these findings have been reinforced rather than weakened by research reported since the documents were released.

In brief, the findings are that:

(1) Anthropogenic climate change, driven by emissions of greenhouse gases, is already underway and likely responsible for most of the observed warming over the last 50 years—the largest warming that has occurred in the Northern Hemisphere during at least the past 1,000 years;

(2) Over the course of this century the Earth is expected to warm an additional 2.5 to 10.5°F, depending on future emissions levels and on the climate sensitivity—a sustained global rate of change exceeding any in the last 10,000 years;

(3) Temperature increases in most areas of the United States are expected to be considerably higher than these global means because of our nation's northerly location and large average distance from the oceans;

(4) Even under mid-range emissions assumptions, the projected warming could cause substantial impacts in different regions of the U.S., including an increased likelihood of heavy and extreme precipitation events, exacerbated drought, and sea level rise;

(5) Almost all plausible emissions scenarios result in projected temperatures that continue to increase well beyond the end of this century; and,

(6) Due to the long lifetimes of greenhouse gases in the atmosphere, the longer emissions increase, the faster they will ultimately have to be decreased in order to avoid dangerous interference with the climate system.

Evidence that climate change is already underway includes the instrumental record, which shows a surface temperature rise of approximately 1°F over the 20th century, the accelerated sea level rise during that century relative to the last few thousand years, global retreat of mountain glaciers, reduction in snow cover extent, earlier thawing of lake and river ice, the increase in upper air water vapor over most regions in the past several decades, and the 0.09°F warming of the world's deep oceans since the 1950's.

Evidence that the warmth of the Northern Hemisphere during the second half of the last century was unprecedented in the last 1000 years comes from three major reconstructions of past surface temperatures, which used indicators such as tree rings, corals, ice cores, and lake sediments for years prior to 1860, and instrumental records for the interval between 1865 and the present.

On the subject of human causation of this warmth, the NRC report stated that, ''The IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase in greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue.'' Indeed, computer simulations do not reproduce the late 20th century warmth if they include only natural climate forcing such as emissions from volcanoes and solar activity. The warmth is only captured when the simulations include forcings from human-emitted greenhouse gases present in the atmosphere.

In summary, the main conclusions of the IPCC and NRC reports remain robust consensus positions supported by the vast majority of researchers in the fields of climate

change and its impacts. The body of research carried out since the reports were issued tends to strengthen their conclusions.

Sincerely,

Richard J. Abitz, Ph.D., Director, Fluor Fernald, Inc., Cincinnati, OH.

Vincent J. Abreu, Ph.D., Research Scientist, University of Michigan, Department of Atmospheric, Oceanic, and Space Sciences, Ann Arbor, MI.

Ilse Ackerman, M.S., Doctoral Candidate, Cornell University, Department of Crop and Soil Sciences, Ithaca, NY.

Leslie M. Adams, Ph.D., University of New Hampshire, Department of Plant Biology, Durham, NH.

Steven M. Adler-Golden, Ph.D., Principal Scientist, Spectral Sciences, Inc., Burlington, MA.

David D. Ainley, Ph.D., Senior Ecologist, Harvey and Associates, San Jose, CA.

Neela Malati Akhouri, Ph.D., Information Manager, University of Toledo, Lake Erie Center, Oregon, OH.

Becky Alexander, Ph.D., Post-Doctoral Fellow, Harvard University, Department of Earth and Planetary Sciences, Cambridge, MA.

J. David Allan, Ph.D., Professor, University of Michigan, School of Natural Resources and Environment, Ann Arbor, MI.

Mr. MCCAIN. The letter further states:

Over the course of this century, the Earth is expected to warm an additional 2.5 to 10.5 degrees Fahrenheit, depending on future emissions levels and on the climate sensitivity—a sustained global rate of change exceeding any in the last 10,000 years.

Temperature increases in most areas of the United States are expected to be considerably higher than these global means because of our nation's northerly location and large average distance from the oceans.

Almost all plausible emissions scenarios result in projected temperatures that continue to increase well beyond the end of this century, and

Due to the long lifetimes of greenhouse gases in the atmosphere—

Those are the ones that cause no harm in the view of the opponents of this legislation.

the longer emissions increase, the faster they will ultimately have to be decreased in order to avoid dangerous interference with the climate system.

Evidence that climate change is already underway includes the instrumental record, which shows a surface temperature rise of approximately 1 degree Fahrenheit over the 20th century, the accelerated sea level rise during that century relative to the last few thousand years, global retreat of mountain glaciers, reduction in snow cover extent, earlier thawing of lake and river ice, the increase in upper air water vapor over most regions in the past several decades, and the 0.09 Fahrenheit warming of the world's deep oceans since the 1950s.

Evidence that the warmth of the Northern Hemisphere during the second half of the last century was unprecedented in the last 1,000 years comes from three major reconstructions of past surface temperatures, which used indicators such as tree rings, corals, ice cores, and lake sediments for years prior to 1860, and instrumental records for the interval between 1865 and the present.

On the subject of human causation of this warmth, the NRC report stated that the IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase in greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue.

What the Senator from Connecticut and I are doing is an incredibly modest proposal to try to at least stop the increase of greenhouse gases. The overwhelming majority of the scientific community in the United States of America agrees that climate change is taking place. How serious that is, how significant it is, and how longlasting its effect could be the subject of significant debate and discussion.

But the fact is that the loss of jobs, which I do not believe is accurate, is an issue that needs to be addressed. But what about the loss of our environment? What happens if the coral reefs die? What happens if the Arctic icecap melts? What happens if we continue to see increased temperatures?

I don't know all the answers as to what happens. I leave that in the hands of people who are smarter than I am. But if this picture doesn't concern you, then nothing will. I hope we will be able to pass this legislation as a very modest and a very humble beginning to addressing the issue of climate change.

I assure my colleagues of one thing. I will talk about this again tomorrow. We will be back on this issue, just as we were back on the issue of campaign finance reform. We will be back on it because this is not stopping. This is not stopping. More and more evidence will be accumulated and more and more people will become concerned because we love this great country of ours and we love this world and we do not want to see it destroyed.

The overwhelming body of scientific evidence indicates we are placing our globe in jeopardy and the lives and futures of our children and our grandchildren. We may have lived in a very nice time in the history of the world. Our children and grandchildren may be condemned to a much less happy world.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. As sponsors of the amendment, traditionally, we speak last.

Mr. LIEBERMAN. Would the Chair advise us how much time remains?

The PRESIDING OFFICER. There remain 23 seconds for the proponents of the measure and 3 minutes 23 seconds for the Senator from Oklahoma.

Mr. INHOFE. Since it was called to our attention that tradition would have it you wrap up, you may have the last 23 seconds. Let me say to my good friend from Arizona—and he is a good friend—you can talk about these people. He talked about 1,010 scientists. I talked about over 20,000 scientists who have agreed with this, looked at this, and said it doesn't really exist. I have talked about sources that cannot be impugned by anyone. I am talking about the Smithsonian, Harvard, Standard & Poor's, and others.

Let me just mention I have saved, I think, the best for last because, yes, we are concerned about jobs. That is the biggest concern we have in America now. Wharton Econometric Forecasting Associates came out with something that delineated exactly the damage that would be done to America and that it would cost 2.4 million U.S. jobs. That is why the labor unions are involved in this. It would reduce GDP by 3.2 percent, or about $300 billion, which is more than we spend on primary and secondary education combined.

They said because of Kyoto, American consumers would face higher medical, food, and housing costs. Tomorrow I will delineate exactly how much that is. At the same time, an average household of four would see its real income drop by $2,700 by 2010, and each year thereafter.

They go on to say—this is the Wharton School of Economics:

Under Kyoto, energy and electricity prices would nearly double and gasoline prices would go up an additional 65 cents a gallon.

I know I am almost out of time. Since it was brought up by the distinguished Senator from Connecticut about the farmers, let me tell you who is frantically trying to stop us from destroying the American farmer: the International Dairy Foods Association, the National Association of Wheat Growers, National Cattle and Beef Association, National Food Processors Association, National Grange, the National Oilseed Producers, the American Farm Bureau, the National Corn Growers Association. The list goes on and on, because these people are very much concerned about the competitive disadvantage in which they would find themselves.

I would also have to say I invite my very good friend from Arizona to go back and search the record of my remarks, the 40-minute talk I made a few minutes ago. Nowhere in that talk are the two names—what were they, Wigley and Schneider?—who were mentioned during that time. Tomorrow there will be ample opportunity to address that issue.

We are talking about a big deal. You wonder what the motivation is? I will quote a couple of people. If the science is not real, if it inflicts all this damage on America, then what could possibly be the motivation? I think maybe Jacques Chirac, the President of France, the other day was correct when he said, ''Kyoto is not about climate. It is the first component of an authentic global governance.''

Do we really want to have France dictating policies to us?

Mr. MCCAIN. I ask unanimous consent that the Senator from Oklahoma have an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Let me just say I will yield the remainder of my time. I think it would be only fair if I get an additional 3 minutes, that they get an additional 3 minutes, too, and I don't want that to happen.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I wish to express my appreciation to all who

have engaged in this debate tonight. I wish we had more time. This press of end-of-year business prevents us from doing so. We will be revisiting this issue. I congratulate the Senator from Oklahoma for an articulate presentation of his views. I look forward to our additional 2 hours together tomorrow.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement 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 describe a sad and reprehensible display of intimidation that took place in Peoria, IL, on July 6, 2001. That day, Forest Hatley and Charles Lambert decided to burn a cross at a home in Macomb, IL, where an interracial couple lived. The two men constructed a 7-foot by 3-foot cross and doused it with gasoline. Shortly after midnight, the two men transported the cross to the victims' yard, planted it in front of the home, and ignited it. Lambert and Hatley each admitted this action was taken to intimidate the couple because of the male's race and because he was living with a person of another race.

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. By passing this legislation and changing current law, we can change hearts and minds as well.

NOMINATION FOR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. KENNEDY. Mr. President, the nomination of Naomi Churchill-Earp to be a member of the Equal Employment Opportunity Commission in the Department of Labor was approved today by the Health, Education, Labor, and Pensions Committee, despite concerns about her ability to fairly apply employment laws.

Many of us in the committee have strong reservations about her record. A Commissioner of the EEOC must have a record of conduct that supports and promotes equality in the workplace. Ms. Churchill-Earp has served as an equal employment manager at a number of Federal agencies and while serving in these positions, a number of discrimination complaints have been filed against her. African Americans, in particular, say that she has created a hostile working environment by making disparaging remarks about African-American employees. The NAACP and Blacks in Government oppose her nomination, and many of us share their concerns.

The committee did not hold a hearing on this important nomination, and we did not have the opportunity to question her about her qualifications and positions. Unless we have an opportunity to resolve these concerns, I intend to oppose this nomination when it reaches the full Senate.

NOMINATION FOR COMMISSIONER OF EDUCATION STATISTICS

Mr. KENNEDY. Mr. President, the nomination of Robert Lerner to be Commissioner of Education Statistics in the Department of Education was approved today by the Health, Education, Labor and Pensions Committee despite concerns about this nominee's qualifications.

The Commissioner of Statistics must conduct the activities of that office in a manner that is ''objective, secular, neutral and non-ideological'' and ''free of partisan political influence and racial, cultural, general or regional bias.'' The Commissioner must also have ''substantial knowledge'' of the programs assisted by the National Center for Education Statistics.

Many of us feel that Dr. Lerner does not meet these requirements. He has clearly been an advocate for partisan ideological causes, and his advocacy does not seem to be compatible with a non-partisan role as Commissioner. His published writings raise questions about his ability to set aside his ideological views in dealing with statistical analysis.

Previous nominees for this important position have come from academic backgrounds and with experience in dealing with statistical analysis. Dr. Lerner has no such experience or academic background.

The Committee did not have a hearing on this important nomination and we did not have the opportunity to question Dr. Lerner regarding his qualifications and past advocacy. Unless we have an opportunity to resolve these concerns, I intend to oppose this nomination when it reaches the full Senate.

NATIONAL CEMETERY EXPANSION ACT OF 2003

Mr. GRAHAM of Florida. Mr. President, today the House passed important legislation that has already unanimously passed the Senate and authorizes the construction of six new national veterans cemeteries. By passing this bill, we ensure that America's veterans and their families have access to the burial honors they have earned.

The brave men and women who fought for our nation are a population that is aging rapidly. In 2002, America lost 646,264 veterans. Projections show that this rate will continue to climb through the year 2008, when we are expected to lose over 700,000 veterans.

By the end of 2004, only 64 of the 124 veterans national cemeteries will be available for both casketed and cremated remains. As cemetery service capabilities decrease, veterans in areas near cemeteries that are at capacity will lose access to burial options within a reasonable distance of their homes. In order to ensure that burial options are provided for veterans and their family members, we must develop new cemeteries and expand existing cemeteries. This process must start as soon as possible because the construction of a new cemetery takes an average of seven years.

In anticipation of veterans' future needs, the Department of Veterans Affairs conducted a study that identifies veteran population centers not served by an open national or state veterans cemetery. The report, ''Future Burial Needs,'' was initially released in May 2002 and has been recently revised using veteran population estimates from the 2000 census. The report identified 31 locations as areas where cemeteries would need to be established.

Recognizing that it would not be practicable to establish national cemeteries in all 31 locations, especially in areas where state cemeteries could meet the needs of smaller veterans' populations, VA established guidelines to determine the neediest areas. In locations that had more than 170,000 veterans residing more than 75 miles from an open state or national cemetery, VA would establish or expand national cemeteries. Based on revised population estimates and the new guidelines, VA identified 11 locations that required either a new national cemetery or an expansion of an existing national cemetery. Of these locations, five will be served by an already-planned state cemetery funded through VA's State Cemetery Grants Program or by expanding existing national cemeteries. This bill directs the Department of Veterans Affairs to construct veterans cemeteries six cities: Jacksonville, Florida; Sarasota, Florida; Birmingham, Alabama; Bakersfield, California; Philadelphia, Pennsylvania; and Columbia, South Carolina.

We cannot afford to wait any longer to fulfill this commitment to our nation's veterans. Mr. President, I am

proud to have sponsored legislation to help provide peace of mind to veterans and their families at that difficult time. Now, I look forward to working with my colleagues on securing the necessary resources to begin construction of these cemeteries expeditiously.

CONFIRMATION OF THOMAS HARDIMAN

Mr. SANTORUM. Mr. President, in this sadly historic era of unprecedented filibusters of judicial nominees, the truth is an unwelcome visitor to those in the minority who seek to deprive President Bush of his constitutional duty to nominate Article III judges. The latest salvo in this increasingly disappointing game is the ranking member of the Judiciary Committee's written statement regarding Thomas M. Hardiman, who was confirmed by the Senate by unanimous consent on October 22, 2003.

The ranking member claims that Mr. Hardiman has ''no judicial experience,'' which is of course not unusual for district court nominees. Although Mr. Hardiman has not stood for election as a State trial court judge in Allegheny County, a county where Democrats outnumber Republicans by a margin of more than 2–1, Mr. Hardiman is not without significant adjudicatory experience. In 1995 the Disciplinary Board of the Pennsylvania Supreme Court appointed Mr. Hardiman as a Hearing Officer to adjudicate cases involving alleged violations of the Rules of Professional Conduct brought by clients against their lawyers. Mr. Hardiman served with distinction in this capacity, on a pro bono basis, until his recent confirmation. In addition, Mr. Hardiman has adjudicated securities cases as an arbitrator under the auspices of the National Association of Securities Dealers. His work for the Disciplinary Board and the NASD has provided Mr. Hardiman with valuable experience ruling on motions, reviewing evidence, assessing the credibility of witnesses, deciding cases, and researching and writing opinions. Without doubt, Mr. Hardiman's experiences adjudicating these cases has increased his preparedness for the Federal bench.

In addition to his quasi-judicial experience, Mr. Hardiman has impeccable academic credentials. As Senator SPECTER has noted, Mr. Hardiman graduated with honors from both the University of Notre Dame and Georgetown University Law Center. He was appointed to the prestigious position of Notes and Comments Editor of the Georgetown Law Journal, was a semifinalist in the first-year moot court competition and participated on the Criminal Law moot court team. Mr. Hardiman's academic credentials are especially impressive considering the fact that he is the first in his family to attend college and he worked part-time during most of is law school career.

Consistent with his academic achievements, Thomas Hardiman has had a distinguished career as a litigator and trial lawyer. After working for the prestigious law firm of Skadden, Arps, Slate, Meagher & Flom, Mr. Hardiman and his wife moved to Pittsburgh in 1992 where he has been a rising star in the Pittsburgh legal community. Mr. Hardiman is admitted to practice law in Pennsylvania, Massachusetts, and the District of Columbia. He has been a member of the bar of the Supreme Court of the United States, the U.S. Court of Appeals for the Third Circuit, the U.S. Tax Court, as well as the court he now joins. He has handled well over 60 trials. For the record—and to address the ranking member's semantic game regarding the number of trials Mr. Hardiman has conducted—a ''trial'' is defined as ''A judicial examination and determination of issues between parties to action . . . whether they be issues of law or fact.'' *Black's Laws Dictionary*, 5th ed. 1979. Among these 60-plus cases are: four cases before the Court of Appeals for the Third Circuit, two cases before the Pennsylvania Supreme Court, and 11 cases before the intermediate appellate courts of Pennsylvania. Mr. Hardiman has been lead counsel on several jury and non-jury trials in Federal and State court, and has tried cases to judgment on a variety of dispositive motions at all levels of the Pennsylvania judiciary. Mr. Hardiman has been lead and associate counsel on several equity matters in Federal and State court as well. Finally, he has handled matters involving real estate, contracts, securities, taxation, Medicare fraud, civil rights, and cases arising under the first, fourth, fifth, sixth, seventh, eighth, tenth, eleventh, and fourteenth amendments to the U.S. Constitution. In sum, Thomas Hardiman has deep and broad experience as a trial lawyer which is particularly extraordinary for a man his age.

In a letter dated June 18, 2003, Chief Justice of the Pennsylvania Supreme Court and lifelong Democrat Ralph J. Cappy wrote of Mr. Hardiman: ''As a professional, he is outstanding. His competence and ethics are beyond reproach. It is rare that we see a person of his age and experience argue before our Court, often successfully, with a courtesy and depth of knowledge which could serve as a benchmark for any who appear before us.'' The Chief Justice continued: ''As an individual, Tom is exemplary. He is extremely bright and knowledgeable in the law.'' Another prominent Democrat and Professor of Law at Duquesne Law School, Kenneth Gormley, wrote on June 19, 2003: ''Tom is a first-rate litigator, who is conscientious about every aspect of his work; he is a perfectionist when it comes to representing clients in a professional manner. As an appellate lawyer, Tom possesses an extremely high level of sophistication when it comes to analytical reasoning and writing. His written work product is first-rate. An an oral advocate, he is as good as any appellate lawyer I have seen in action in twenty years.'' Professor Gromley said of Mr. Hardiman: ''He is a lawyer of superior intellect, good judgment, and boundless energy. It is my opinion that he will constitute an excellent addition to the federal bench here in the Western District of Pennsylvania.''

Finally, the dean of the Democratic bar in Allegheny County, David Armstrong, wrote of Mr. Hardiman on June 17, 2003: ''I have come to know Mr. Hardiman as an excellent lawyer and a person of great intellectual curiosity and ability, as well as personal integrity. Mr. Hardiman's temperament, intellect, character and experience in my opinion, would make him an excellent member of the federal bench.'' Significantly, attorney Armstrong came to know Mr. Hardiman through trials they litigated against one another.

As the aforementioned facts demonstrate, the ranking member's unfair criticism and inappropriate reliance on the comments of a disgruntled lawyer in Pittsburgh who was the chief contributor to the local bar's rating of Mr. Hardiman demonstrate beyond doubt that the only partisanship involved with Mr. Hardiman's nomination and confirmation emanated from those who slandered him in an effort to defeat the nomination of a good and able man. It is always more appropriate to raise allegations about a nominee at his hearing rather than after his confirmation by the Senate. I am pleased to have the opportunity to set the record straight and I commend the Senate for its confirmation of Thomas Hardiman who will serve the people of Pennsylvania well as a Federal judge.

TRIBUTE TO THE LATE EARL GOODWIN, FORMER ALABAMA STATE SENATOR

Mr. SHELBY. Mr. President, I pay tribute today to a dear friend and Alabama icon, Mr. Earl Goodwin. Earl passed away on Friday, October 24, 2003 at the age of 93. He and I and our families have been close friends for nearly 40 years, and his death is a great loss for the State of Alabama.

Earl was a soldier in the United States Armed Forces, fighting on the beaches of Normandy. He made multiple trips back to England to pick up more groups of troops bringing them over to France. He completed these missions in aircraft that were unsafe because of their frequent crash landings. Earl was a true war hero, who put love of country before everything else.

After the war, he returned to Alabama and eventually created Bush Hog which became one of the world's foremost manufacturer of farm implements. Bush Hog employs hundreds of Dallas County residents, and has made great contributions in economic development to the region. Earl was a visionary with a smart mind for business. He will certainly be remembered for the tremendous difference he made in Dallas County.

Throughout his time in business, Earl was active in the community and politically astute. A lifelong Democrat, he became a prominent member of the Alabama State Senate, worked for Governor George Wallace, worked to elect Governor Don Siegelman, and served as a National Democratic Committeeman.

Senator Goodwin is an example of the American success story. Born into poverty, Earl took adversity and challenged it in every way possible. He was a war hero, a successful businessman, a husband of 61 years, and a father and grandfather.

Earl Goodwin will be missed by all those who knew him, and I hope this tribute exemplifies, in a small way, the kind of man that he was.

ADDITIONAL STATEMENTS

JOSEPH W. MCCRACKEN

● Mr. SMITH. Madame President, I rise today to acknowledge the passing of Joseph W. McCracken on October 26, 2003.

For over four decades Mr. McCracken represented the forest products industry in Oregon and other western States, as the executive vice President of The Western Forest Industries Association. Mr. McCracken represented a sector of the industry that I hold in particularly high esteem—a sector comprised of small, family owned sawmills and plywood plants.

These are the mills that traditionally depended on our Federal forest lands for their supply of timber. These are the mills that are located in small rural communities where they provide the backbone of the local economy.

During his years of service to his industry, Joe McCracken was a fixture in his town and served as an advisor and mentor to many of our predecessors in this body. Warren Magnusen, Scoop Jackson, Mark Hatfield, Bob Packwood, Frank Church, Jim McClure, Jim Melcher, and other stalwarts of our western Senate delegation looked to Joe for counsel and advice on public land issues affecting his constituents.

He represented them with a passion and commitment that was exemplary. Joe McCracken was a visionary and was responsible for creating and influencing countless pieces of legislation and regulations that benefitted his industry, the people that work in it and the communities that depend on it.

The Small Business Set Aside Program, as just one example, assured small, family-owned mills a fair share of the Federal timber sold from our national forests and lands managed by the Bureau of Land Management.

Joe McCracken was a pioneer in crafting the policies and regulations affecting the Oregon and California Railroad lands in western Oregon, today known as the ''O&C'' lands. He did this both as a professional staff person for the Department of the Interior and as an advocate for his trade association.

Under Joe McCracken's representation, the small, family owned mills throughout the west prospered. Many of them are under second and even third generation management. Unfortunately, many of them no longer exist.

After Joe's retirement in the early 90's, a sea change in Federal policies regulating the management of public forests unfolded to the point that very little timber is being provided from these forest lands and many of the mills have closed.

Unfortunately, these were the mills Mr. McCracken fought so hard to preserve. Those that have survived owe their existence largely to Joe McCracken.

Joe was born in Dillon, MT in 1924. He served his country as a Lieutenant in the United States Marines. He attended Princeton University where he earned a masters degree in political science.

He had a distinguished career with the Department of Interior and, specifically, the Bureau of Land Management prior to taking the leadership position with the Western Forest Industries Association.

Joe McCracken was a unique individual who left a profound imprint on the growth and evolution of public forest policy and the industry that is so closely dependent on public forest lands. His contributions to this body in assisting us in the thoughtful debate and deliberation of these important matters are worthy of our formal recognition.

I extend my heartfelt sympathy to Joe McCracken's wife Janet and his two children.●

WORKPLACE LEARNING CONNECTION

● Mr. HARKIN. Mr. President, in the middle of the last decade, a group of business and education leaders in Cedar Rapids, IA convened a stakeholder group to discuss community concerns. This group identified the need for a highly skilled and well-educated workforce as a top priority.

The fact that this group identified the need to improve workforce development is not news. Nor is the problem they identified unique or isolated to eastern Iowa. What is news and what is unique is the response.

In 1998, area employers, educational institutions and community organizations partnered with Kirkwood Community College and Grant Wood Area Education Agency to create the Workplace Learning Connection to facilitate work-based learning for area students. This project is a winner for everyone involved. Teachers and students get more information about local career opportunities and the skills needed for those careers. Students get experience in relevant, work-based learning activities. Employers get workers with the skills that match the jobs they have.

The Workplace Learning Connection has been recognized as one of the 11 best Tech Prep programs in the Nation, is one of the top 25 school-to-work programs in the country and has been cited in national publications as an exemplary program. Over the past 5 years, TWLC has worked with over 700 employers to organize over 8,000 job shadow experiences and 750 internships; provided professional development activities for teachers impacting thousands of students in 35 area school districts in 7 counties; and facilitated hundreds of business tours and classroom speakers.

The Workplace Learning Connection has been an unqualified success and the community is celebrating the fifth anniversary of this project on October 30, 2003. In commemoration of this event, I wanted to bring this organization to the attention of the Senate and the Nation.●

TRIBUTE TO MARY ALICE ZETTEL

● Mr. BUNNING. Mr. President, I pay tribute to Mary Alice Zettel of Bardstown, KY, on being recognized as one of the Nation's top principals in the 2003 National Distinguished Principal Program by the U.S. Department of Education.

The annual National Distinguished Principals Program was established in 1984 to honor elementary and middle school principals who set high standards for the pace, character, and quality of the education their students receive.

Ms. Zettel, a principal at Holy Trinity Parish School in Louisville, KY, has been recognized by the U.S. Department of Education for her tireless work in exhibiting excellence at Holy Trinity Parish School and has made outstanding contributions to the Louisville community. It has been said when entering Holy Trinity Parish School you will hear Ms. Zettel's laughter and happiness throughout its hallways. Ms. Zettel sets an example of excellence for the rest of the faculty, and the faculty follows that example, and she inspires her students to achieve academically and contribute to the community.

I now ask my fellow colleagues to join me in thanking Mary Alice Zettel for her dedication and commitment to the education of America's future. In order for our society to continue to advance in the right direction, we must have principals like Mary Alice Zettel in our schools and communities.●

TRIBUTE TO RONALD W. BARTON

● Mr. WARNER. Mr. President, I would like to note before the Senate a great professional honor bestowed recently on my constituent, Ronald W. Barton of Arlington: the Chairman's Medal of the Defense Nuclear Facilities Safety Board.

The Safety Board, the Senators will recall, was established by statute in 1988 for the purpose of providing the highest quality of technical oversight of the safe operations of the Nation's nuclear weapons complex—dozens of plants with very high risk radioactive material. To accomplish this very difficult task, the Safety Board has to attract and train the very best technical talent in the nuclear area. Chairman Conway's citation accompanying the award to Mr. Barton says in part:

Mr. Barton joined the Board in 1994, bringing with him more than 25 years of project management and engineering experience in the design, construction, and operation of nuclear reactors for commercial facilities. He became an indispensable leader for the Board's technical staff, and was key to the development of more than half a dozen technical reports, which continue to have an impact on operations in the defense nuclear complex today.

I have examined Mr. Barton's career, and I certainly agree with Chairman Conway. Mr. Barton not only brought his own expertise to the board, but he trained and developed a generation of young engineers to contribute to the admirable technical performance of the safety board, where a technical staff of about 60 oversees the safe operation of a complex of over 100,000 workers with a budget of over $16 billion. This technical staff is superb, and Ron Barton helped build it, and then led it by example.

Now Ron must retire, much too early, because of his leukemia. We wish he were able to continue to serve, but we are grateful for the contributions he made to safety in the nuclear complex. For instance, Ron was the expert lead on at least six very complex and thorough technical studies, on such diverse areas as: DOE emergency management capabilities, confinement ventilation systems, fire protection, criticality safety, and documented safety analysis. This is an extraordinary list of achievements; these reports still guide the Department of Energy operations of these complex, hazardous facilities. We should be grateful to Ron for these contributions.

Ron Barton is the best of the best, and the Nation will miss his contributions. We wish him good health and a happy retirement.●

NETDAY STUDENT VOICES' SPEAK UP DAY ON OCTOBER 29

● Ms. STABENOW. Mr. President, I rise today to ''speak up'' and support ''Speak Up Day,'' a national event where students of all ages and grades, from communities and schools across the country, will go online from their classrooms and share their opinions, ideas and thoughts about how technology should be used in schools. NetDay, a national non-profit organization dedicated to connecting every child to a brighter future through the use of technology, is hosting this inaugural event of student participation in the governmental process.

''Speak Up Day'' is being held as the U.S. Department of Education works on the development the Nation's third National Education Technology Plan as mandated by the No Child Left Behind Act. The Plan will establish a national strategy supporting the effective use of technology to improve student academic achievement and to prepare students for the 21st century.

Today's ''Speak Up Day'' activities will allow the student voice to be heard and involved in crafting this new Technology Plan. NetDay will summarize the student ''Speak Up Day'' comments into a written report that will be submitted for the National Education Technology Plan and will be available online for public discussion. This report will also be a call to action for national, State, and local education leaders to recognize the importance of student input in discussions about how schools and instruction impact their educational experiences.

I think we can all agree that using technology in schools has become a necessity. With the expansion and prevalence of the Internet in our society, it is critical that we teach our children how to use computers, the Internet, and the various other forms of interactive technology that exist today. Yet beyond the necessity of 'learning' technology, it is important that educators and communities understand that so many of our youth today are already 'one' with technology. The challenge lies in understanding how to connect this technological know-how with classroom instruction so that all our children have the best educational experience possible to prepare them for the future. ''Speak Up Day'' is a real life lesson on the impact of technology in the classroom, a forum for students to be civically engaged, and an outlet for our Nation's youth to express their empowerment when technology is paired with education.

Since October 1, over 1,000 schools from all 50 States, the District of Columbia, and over 25 Department of Defense schools have preregistered for NetDay's ''Speak Up Day'' initiative, with over 170,000 students planning to participate. I am pleased that schools across the State of Michigan have registered to take part in this event. Over 5,000 students from small rural schools in Middleville, MI, to suburban schools in West Bloomfield and high schools in Detroit will have the opportunity to express their thoughts on technology in schools. I highly commend NetDay for sponsoring this progressive event, and I look forward to hearing the outcome of the discussion.●

TRIBUTE TO GARRY NEIL DRUMMOND, SR.

● Mr. SHELBY. Mr. President, I pay tribute to a dear friend, Garry Drummond, of Birmingham, AL. Garry Drummond was recently named to the Alabama Business Hall of Fame.

Garry is the chairman and chief executive officer of Drummond Company, Inc., one of Alabama's largest coal producers and a major national producer of foundry coke. The company was founded in 1935 by Mr. Heman Drummond, father of five brothers who are still associated with the company today. The company's executive and administrative offices are in Birmingham, with operational headquarters in Jasper, AL.

Garry was born in Sipsey, AL, on June 8, 1938. He earned his Associate degree from Walker College in 1959. He received his bachelor of science degree in civil engineering from the University of Alabama in 1961. He also holds an honorary doctorate of science from the University of Alabama, awarded in May 1983, and served on the University's board of trustees from 1983 to 2001.

Garry has been active in the coal industry and its State, national, and international organizations. He is the longest running board member of the National Mining Association and is a former member of the board of directors of the American Coal Foundation. He is a founder of the Mining and Reclamation Council of America , MARC, a national trade organization representing primarily surface miners that later merged with the National Coal Association in 1987. Garry served as MARC's first chairman. He is a member of the board of directors and past chairman of the Alabama Coal Association and a former member of the National Coal Council, an advisory group appointed by the U.S. Secretary of Energy. He is also a member of the board of directors of the Center for Energy and Economic Development.

I offer Garry my congratulations and best wishes as he becomes a member of the Alabama Business Hall of Fame.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO THE NATIONAL EMERGENCY DECLARED IN EXECUTIVE ORDER 12938 WITH RESPECT TO WEAPONS OF MASS DESTRUCTION—PM 53

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee

on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the emergency posed by the proliferation of weapons of mass destruction and their delivery systems declared by Executive Order 12938 on November 14, 1994, as amended, is to continue in effect beyond November 14, 2003. the most recent notice continuing this emergency was signed on November 6, 2002, and published in the *Federal Register* on November 12, 2002 (67 Fed. Reg. 68493).

Because the proliferation of weapons of mass destruction and the means of delivering them continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have determined the national emergency previously declared must continue in effect beyond November 14, 2003.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 29, 2003.*

REPORT RELATIVE TO THE NATIONAL EMERGENCY WITH RESPECT TO SUDAN RELATIVE TO THE THREAT TO NATIONAL SECURITY AND FOREIGN POLICY OF THE UNITED STATES—PM 54

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice, stating the Sudan emergency is to continue in effect beyond November 3, 2003, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on October 31, 2002 (67 Fed. Reg. 66525).

The crisis between the United States and Sudan constituted by the actions and policies of the Government of Sudan that led to the declaration of a national emergency on November 3, 1997, has not been resolved. These actions and policies are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. Therefore, I have determined it is necessary to continue the national emergency declared with respect to Sudan and maintain in force the comprehensive sanctions against Sudan to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 29, 2003.*

MESSAGES FROM THE HOUSE

At 2:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1616. An act to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes.

H.R. 2744. An act to designate the facility of the United States Postal Service located at 514 17th Street in Moline, Illinois, as the ''David Bybee Post Office Building''.

H.R. 3232. An act to reauthorize certain school lunch and child nutrition programs through March 31, 2004.

H.R. 3234. An act to designate the facility of the United States Postal Service located at 14 Chestnut Street in Liberty, New York, as the ''Ben R. Gerow Post Office Building''.

H.R. 3249. An act to extend the term of the Forest Counties Payments Committee.

H.J. Res. 63. Joint resolution to approve the ''Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia,'' and the ''Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands,'' and otherwise to amend Public Law 99–239, and to appropriate for the purposes of amended Public Law 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 268. Concurrent resolution expressing the sense of the Congress regarding the imposition of sanctions on nations that are undermining the effectiveness of conservation and management measures for Atlantic highly migratory species, including marlin, adopted by the International Commission for the Conservation of Atlantic Tunas and that are threatening the continued viability of United States commercial and recreational fisheries.

H. Con. Res. 279. Concurrent resolution recognizing the significance of the anniversary of the American Association for the Advancement of Science Congressional Science and Engineering Fellowship Program, and reaffirming the commitment to support the use of science in governmental decision-making through such Program.

The message further announced that the House has passed the bill (S. 470) to extend the authority for the construction of a memorial to Martin Luther King, Jr., without amendment.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 2989) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and for other purposes, and has agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members to be managers of the conference on the part of the House: Mr. ISTOOK, Mr. WOLF, Mr. LEWIS of California, Mr. ROGERS of Kentucky, Mr. TIAHRT, Mrs. NORTHUP, Mr. ADERHOLT, Mr. SWEENEY, Mr. CULBERSON, Mr. YOUNG of Florida, Mr. HOYER, Mr. OLVER, Mr. PASTOR, Ms. KILPATRICK, Mr. CLYBURN, Mr. ROTHMAN and Mr. OBEY.

At 5:56 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendments of the Senate to the bill (H.R. 1516) entitled, ''An Act to provide for the establishment by the Secretary of Veterans Affairs of five additional cemeteries in the National Cemetery System.''.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1616. An act to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes to the Committee on Energy and Natural Resources.

H.R. 2744. An act to designate the facility of the United States Postal Service located at 514 17th Street in Moline, Illinois, as the ''David Bybee Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3232. An act to reauthorize certain school lunch and child nutrition programs through March 31, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3234. An act to designate the facility of the United States Postal Service located at 14 Chestnut Street in Liberty, New York, as the ''Ben R. Gerow Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3249. An act to extend the term of the Forest Counties Payments Committee; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 268. Concurrent resolution expressing the sense of the Congress regarding the imposition of sanctions on nations that are undermining the effectiveness of conservation and management measures for Atlantic highly migratory species, including marlin, adopted by the continued viability of United States commercial and recreational fisheries; to the Committee on Commerce, Science, and Transportation.

H. Con. Res. 279. Concurrent resolution recognizing the significance of the anniversary of the American Association for the Advancement of Science Congressional Science and Engineering Fellowship Program, and reaffirming the commitment to support the use of science in governmental decision-making through such Program; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar.

H. J. Res. 63. Joint resolutions to approve the ''Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia,'' and the ''Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands,'' and otherwise to amend Public Law 99–239, and to appropriate for the purposes of amended Public Law 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes.

The following bill was discharged from the Committee on Commerce, Science, and Transportation, pursuant to the order of September 23, 2003, and placed on the calendar.

S. 150. A bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

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–4725. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program for Consumer Products: Test Procedure for Dishwashers'' (RIN1904–AB10) received on October 7, 2003; to the Committee on Energy and Natural Resources.

EC–4726. A communication from the Assistant General Counsel for Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulation: Motor Vehicle Fleet Fuel Efficiency'' (RIN1991–AB59) received on October 7, 2003; to the Committee on Energy and Natural Resources.

EC–4900. A communication from the Assistant Secretary, Land and Minerals Management, transmitting, pursuant to law, the report of a rule entitled ''Locating, Recording, and Maintaining Mining Claims or Sites'' (RIN1004–AD31) received on October 27, 2003; to the Committee on Energy and Natural Resources.

EC–4901. A communication from the Assistant Chief Counsel, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Advanced Construction of Federal-aid Projects'' (RIN2125–AD59) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4902. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage'' (RIN2137–AC68) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4903. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Fayetteville, AR'' (MM Doc. No. 01–55) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4904. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Butte, MT'' (MB Doc. No. 03–118) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4905. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Harrison, Michigan'' (MB Doc. No. 03–176) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4906. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Bay City, Michigan'' (MM Doc. No. 01–84) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4907. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Payson, Camp Verde, Arizona'' (MB Doc. No. 03–160) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4908. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Ozona and Iraan, Texas'' (MB Doc. No. 02–261) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4909. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Crisfield, Maryland; Belle Haven, Exmore, Nassawadox, and Poquoson, Virginia'' (MM Doc. No. 02–76) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4910. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Buffalo, Oklahoma'' (MB Doc. No. 02–383) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4911. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Daisy, AR; Trona, CA; Muldrow and Rattan, OK)'' (MB Doc. No. 03–42, – 29, –30, –43) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4912. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Saint Joseph, Clayton, Ruston, and Wisner, Louisiana'' (MM Doc. No. 01–19, –27,) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4913. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Quartzsite, Arizona'' (MB Doc. No. 03–131) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4914. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cedar Bluff, Virginia and Gary, West Virginia)'' (MB Doc. No. 02–316) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4915. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of LPTV Digital Data Services Pilot Project'' (FCC01–137) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4916. A communication from the Bureau Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities'' (FCC02–121) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4917. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (31)'' (RIN2120–AA65) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4918. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: [CGD01–03–101] Mianus River, CT'' (RIN1625–AA09) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4919. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: [CGD08–03–035] Mississippi River, Iowa and Illinois'' (RIN1625–AA09) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4920. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: [CGD05–03–166] Hatteras Island, NC'' (RIN1625–AA00) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4921. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747SP and 747SR; 747–100B , 200B, 200C, 200F, 300, 400, and 400D and 767–200 Series Airplanes Doc. No. 2002–NM–106'' (RIN2120–AA64) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4922. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–9–31 and DC–9–32 Airplanes Doc. No. 2003–NM–61'' (RIN2120–AA64) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4923. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes Doc. No. 2003–CE–42'' (RIN2120–AA64) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4924. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Beech Models 1900, 1900C, and 1900D Airplanes Doc. No. 2003–CE–43'' (RIN2120–AA64) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4925. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Stemme GmbH and Co. KG Models STEMME S10–VT Sailplanes Doc. No. 2003–CE–36'' (RIN2120–AA64) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4926. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Aircraft Company Models 208 and 208B Airplanes Doc. No. 2003–CE–41'' (RIN2120–AA64) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC–4927. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Review Inspection Requirements'' (RIN0580–AA58) received on October 27, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4928. A communication from the Secretary of the Treasury transmitting, a six month periodic report in the national emergency with respect to Sudan that was declared in Executive Order 13067; to the Committee on Banking, Housing, and Urban Affairs.

EC–4929. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tebufenozide; Extension of Tolerance for Emergency Exemptions'' (FRL#7330–2) received on October 27, 2003; to the Committee on Environment and Public Works.

EC–4930. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Nonpoint Source Program and Grants Guidelines for State and Territories'' received on October 27, 2003; to the Committee on Environment and Public Works.

EC–4931. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Regional Haze Rule to Correct Mobile Source Provisions in Optional Program for Nine Western States and Eligible Indian Tribes Within that Geographic Area; Direct Final Rule, Removal of Amendments'' (FRL#7579–6) received on October 27, 2003; to the Committee on Environment and Public Works.

EC–4932. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—November 2003'' (Rev. Rule 2003–114) received on October 27, 2003; to the Committee on Finance.

EC–4933. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Eligibility Criteria for WOTC'' (Rev. Rule 2003–112) received on October 27, 2003; to the Committee on Finance.

EC–4934. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Special Rules for Certain Foreign Business Entities'' (RIN1545–AX39) received on October 27, 2003; to the Committee on Finance.

EC–4935. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''2003 Base Period T-Bill Rate'' (Rev. Rul. 2003–111) received on October 27, 2003; to the Committee on Finance.

EC–4936. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Actual Knowledge of Tax Lien for Priority Under IRC 6323(a)'' (Rev. Rule 2003–108) received on October 27, 2003; to the Committee on Finance.

EC–4937. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling Permitting Electronic Substantiation of Employee Travel and Entertainment Expenses'' (Rev. Rul. 2003–106) received on October 27, 2003; to the Committee on Finance.

EC–4938. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Qualified Census Tracts—Pacific Islands'' (Rev. Proc. 2003–81) received on October 27, 2003; to the Committee on Finance.

EC–4939. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Bureau of Labor Statistics Price Indexes for Department Stores—August 2003'' (Rev. Rul. 2003–113) received on October 27, 2003; to the Committee on Finance.

EC–4940. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''2004 Per Diem Travel Expenses'' (Rev. Proc. 2003–80) received on October 27, 2003; to the Committee on Finance.

EC–4941. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''2003 Automobile Inflation Adjustment'' (Rev. Proc. 2003–75) received on October 27, 2003; to the Committee on Finance.

EC–4942. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Business Purpose Aggregation'' (Rev. Rul. 2003–110) received on October 27, 2003; to the Committee on Finance.

EC–4943. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles and services in the amount of $50,000,000 or more to the Pacific Ocean (international waters); to the Committee on Foreign Relations.

EC–4944. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 to Japan; to the Committee on Foreign Relations.

EC–4945. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $50,000,000 or more to Mexico; to the Committee on Foreign Relations.

EC–4946. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, a draft of proposed legislation to authorize an education benefit for employees of the Broadcasting Board of Governors serving in the Commonwealth of the Northern Mariana Islands; to the Committee on Foreign Relations.

EC–4947. A communication from the Chair, United States Sentencing Commission, transmitting, an emergency amendment and accompanying report relative to the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 (the ''PROTECT'' Act); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2004'' (Rept. No. 108–175).

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 743. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes (Rept. No. 108–176).

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1066. A bill to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System (Rept. No. 108–177).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1643. A bill to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barriers Resources Act and the National Flood Act of 1968 (Rept. No. 108–178).

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. SANTORUM:

S. 1794. A bill to suspend temporarily the duty on electron guns for cathode ray tubes (CRT's) with a high definition television screen aspect ratio of 16:9 and other parts used in plasma and LCD televisions; to the Committee on Finance.

By Mr. GRAHAM of South Carolina:

S. 1795. A bill to amend title 18, United States Code, and the Federal Rules of Criminal Procedure with respect to bail bond forfeitures; to the Committee on the Judiciary.

By Mr. COLEMAN (for himself, Mr. GRAHAM of South Carolina, and Mr. DEWINE):

S. 1796. A bill to revitalize rural America and rebuild main street, and for other purposes; to the Committee on Finance.

By Mr. DEWINE (for himself and Mr. KOHL):

S. 1797. A bill to implement antitrust enforcement enhancements and cooperation incentives; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL (for himself, Mr. KYL, and Mr. NELSON of Florida):

S. Res. 253. A resolution to recognize the evolution and importance of motorsports; to the Committee on the Judiciary.

By Mr. NELSON of Florida (for himself and Mr. GRAHAM of Florida):

S. Res. 254. A resolution commending the Florida Marlins baseball team for winning the 2003 World Series; considered and agreed to.

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 55, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 269

At the request of Mr. JEFFORDS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 557

At the request of Ms. COLLINS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from Vermont (Mr. LEAHY) 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. 982

At the request of Mrs. BOXER, the name of the Senator from Rhode Island (Mr. REED) 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. 1172

At the request of Mr. FRIST, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Maryland (Ms. MIKULSKI) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1172, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 1177

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1177, a bill to ensure the collection of all cigarette taxes, and for other purposes.

S. 1246

At the request of Mr. ROBERTS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1246, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1548

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1548, a bill to amend the Internal Revenue Code of 1986 to provide incentives for the production of renewable fuels and to simplify the administration of the Highway Trust Fund fuel excise taxes, and for other purposes.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1570

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1570, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 1601

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1601, a bill to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes.

S. 1626

At the request of Mr. DAYTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1626, a bill to provide emergency disaster assistance to agricultural producers.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 1708

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1708, a bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system.

S. 1734

At the request of Mrs. LINCOLN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1734, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to expand or add coverage of pregnant women under the medicaid and State children's health insurance programs, and for other purposes.

S. CON. RES. 67

At the request of Mr. COCHRAN, the name of the Senator from New Jersey

(Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 67, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and supporting the designation of a National Brain Injury Awareness Month.

S. CON. RES. 73

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Con. Res. 73, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 244

At the request of Mrs. BOXER, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. Res. 244, a resolution congratulating Shirin Ebadi for winning the 2003 Nobel Peace Prize and commending her for her lifetime of work to promote democracy and human rights.

AMENDMENT NO. 1828

At the request of Mr. BENNETT, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of amendment No. 1828 proposed to H.R. 1904, a bill to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

AMENDMENT NO. 1966

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 1966 proposed to H.R. 2800, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 2000

At the request of Mr. DORGAN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 2000 proposed to H.R. 2800, a bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes.

At the request of Mr. GRAHAM of Florida, his name was added as a cosponsor of amendment No. 2000 proposed to H.R. 2800, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COLEMAN (for himself, Mr. GRAHAM of South Carolina, and Mr. DEWINE):

S. 1796. A bill to revitalize rural America and rebuild main street, and for other purposes; to the Committee on Finance

Mr. COLEMAN. Mr. President, I ask unanimous consent that the bill I introduce today, the rural Renaissance Act, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1796

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 ''Rural Renaissance Act''.

SEC. 2. RURAL RENAISSANCE CORPORATION.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

''SEC. 379E. RURAL RENAISSANCE CORPORATION.

''(a) ESTABLISHMENT AND STATUS.—There is established a body corporate to be known as the 'Rural Renaissance Corporation' (hereafter in this section referred to as the 'Corporation'). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

''(b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

''(c) FUNCTIONS OF CORPORATION.—The Corporation shall—

''(1) issue rural renaissance bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

''(2) establish an allocation plan as required under section 54(f)(2)(A) of such Code,

''(3) establish and operate the Rural Renaissance Trust Account as required under section 54(i) of such Code,

''(4) perform any other function the sole purpose of which is to carry out the financing of qualified projects through rural renaissance bonds, and

''(5) not later than February 15 of each year submit a report to Congress—

''(A) describing the activities of the Corporation for the preceding year, and

''(B) specifying whether the amounts deposited and expected to be deposited in the Rural Renaissance Trust Account are sufficient to fully repay at maturity the principal of any outstanding rural renaissance bonds issued pursuant to such section 54.

''(d) POWERS OF CORPORATION.—The Corporation—

''(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

''(2) may adopt, alter, and use a seal, which shall be judicially noticed,

''(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

''(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

''(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

''(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

''(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

''(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this section, and

''(9) shall have such other powers as may be necessary and incident to carrying out this section.

''(e) NONPROFIT ENTITY; RESTRICTION ON USE OF MONEYS; CONFLICT OF INTERESTS; INDEPENDENT AUDITS.—

''(1) NONPROFIT ENTITY.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

''(2) RESTRICTION.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this section.

''(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

''(4) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of the Corporation each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be available to the public and shall be included in the report required under subsection (c)(5).

''(f) TAX EXEMPTION.—The Corporation, including its franchise and income, is exempt from taxation imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

''(g) MANAGEMENT OF CORPORATION.—

''(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

''(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 7 members appointed by the President, by and with the advice and consent of the Senate.

''(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

''(C) INDIVIDUALS FROM PRIVATE LIFE.—Five members of the Board shall be appointed from private life.

''(D) FEDERAL OFFICERS AND EMPLOYEES.—Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with rural development.

''(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to rural development processes. Members of the Board shall be appointed so that

not more than 4 members of the Board are members of any 1 political party.

''(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 2 shall be appointed for terms of 1 year and 2 shall be appointed for terms of 2 years.

''(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

''(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

''(3) QUORUM.—A majority of the Board shall constitute a quorum.

''(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.''.

SEC. 3. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

''Subpart H—Nonrefundable Credit for Holders of Rural Renaissance Bonds

''Sec. 54. Credit to holders of rural renaissance bonds.

''SEC. 54. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) RURAL RENAISSANCE BOND.—For purposes of this part, the term 'rural renaissance bond' means any bond issued as part of an issue if—

''(1) 95 percent or more of the proceeds from the sale of such issue are to be used—

''(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

''(B) for deposit in the Rural Renaissance Trust Account for repayment of rural renaissance bonds at maturity,

''(2) the bond is issued by the Rural Renaissance Corporation, is in registered form, and meets the rural renaissance bond limitation requirements under subsection (f),

''(3) except for bonds issued in accordance with subsection (f)(4), the term of each bond which is part of such issue does not exceed 30 years,

''(4) the payment of principal with respect to such bond is the obligation of the Rural Renaissance Corporation, and

''(5) the issue meets the requirements of subsection (g) (relating to arbitrage).

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation for each calendar year. Such limitation is—

''(A) for 2004—

''(i) with respect to bonds described in subsection (e)(1)(A), $50,000,000,000, plus

''(ii) with respect to bonds described in subsection (e)(1)(B), such amount (not to exceed $15,000,000,000) as determined necessary by the Rural Renaissance Corporation to provide funds in the Rural Renaissance Trust Account for the repayment of rural renaissance bonds at maturity, and

''(B) except as provided in paragraph (3), zero thereafter.

''(2) LIMITATION ALLOCATED TO QUALIFIED PROJECTS AMONG STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), the limitation applicable under paragraph (1)(A)(i) for any calendar year shall be allocated by the Rural Renaissance Corporation for qualified projects among the States under an allocation plan established by the Corporation and submitted to Congress for consideration.

''(B) MINIMUM ALLOCATIONS TO STATES.—In establishing the allocation plan under subparagraph (A), the Rural Renaissance Corporation shall ensure that the aggregate amount allocated for qualified projects located in each State under such plan is not less than $500,000,000.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the rural renaissance bond limitation amount, exceeds

''(B) the amount of bonds issued during such year by the Rural Renaissance Corporation,

the rural renaissance bond limitation amount for the following calendar year shall be increased by the amount of such excess. Any carryforward of a rural renaissance bond limitation amount may be carried only to calendar year 2005 or 2006.

''(4) ISSUANCE OF SMALL DENOMINATION BONDS.—From the rural renaissance bond limitation for each year, the Rural Renaissance Corporation shall issue a limited quantity of rural renaissance bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in rural America.

''(g) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Rural Renaissance Corporation reasonably expects—

''(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

''(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

''(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

''(A) the Rural Renaissance Corporation uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

''(B) the following requirements are met:

''(i) The Rural Renaissance Corporation spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

''(ii) The Rural Renaissance Corporation spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

''(h) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a rural renaissance bond ceases to be such a qualified bond, the Rural Renaissance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection

(c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the Rural Renaissance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(i) RURAL RENAISSANCE TRUST ACCOUNT.—

''(1) IN GENERAL.—The following amounts shall be held in a Rural Renaissance Trust Account by the Rural Renaissance Corporation:

''(A) The proceeds from the sale of all bonds issued under this section.

''(B) The amount of any matching contributions with respect to such bonds.

''(C) The investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the Rural Renaissance Trust Account may be used only to pay costs of qualified projects, redeem rural renaissance bonds, and fund the operations of the Rural Renaissance Corporation, except that amounts withdrawn from the Rural Renaissance Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of rural renaissance bonds described in subsection (e)(1)(A).

''(3) USE OF REMAINING FUNDS IN RURAL RENAISSANCE TRUST ACCOUNT.—Upon the redemption of all rural renaissance bonds issued under this section, any remaining amounts in the Rural Renaissance Trust Account shall be available to the Rural Renaissance Corporation for any qualified project.

''(j) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—Subject to paragraph (3), the term 'qualified project' means a project which—

''(A) includes 1 or more of the projects described in paragraph (2),

''(B) is located in a rural area, and

''(C) is proposed by a State and approved by the Rural Renaissance Corporation.

''(2) PROJECTS DESCRIBED.—A project described in this paragraph is—

''(A) a water or waste treatment project,

''(B) a conservation project, including any project to protect water quality or air quality (including odor abatement), any project to prevent soil erosion, and any project to protect wildlife habitat, including any project to assist agricultural producers in complying with Federal, State, or local regulations,

''(C) an affordable housing project,

''(D) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(E) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production or processing of ethanol, biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(F) a rural venture capital project for, among others, farmer-owned entities,

''(G) a distance learning or telemedicine project,

''(H) a project to expand broadband technology, and

''(I) a rural teleworks project.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) any project described in subparagraph (E) or (F) of paragraph (2) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(B) any project for a farmer-owned entity which is a facility described in paragraph (2)(E) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) APPROVAL GUIDELINES AND CRITERIA.—Not later than 60 days after the date of the enactment of this section, the Rural Renaissance Corporation shall consult with the appropriate committees of Congress regarding the development of guidelines and criteria for the approval by the Corporation of projects as qualified projects for inclusion in the allocation plan established under subsection (f)(2)(A) and shall submit such guidelines and criteria to such committees.

''(k) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(3) RURAL RENAISSANCE CORPORATION.—The term 'Rural Renaissance Corporation' means the Rural Renaissance Corporation established under section 379E of the Consolidated Farm and Rural Development Act.

''(4) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Rural Renaissance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(5) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(6) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(7) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a rural renaissance bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the rural renaissance bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(8) REPORTING.—The Rural Renaissance Corporation shall submit reports similar to the reports required under section 149(e).''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF RURAL RENAISSANCE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a rural renaissance bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Subsection (g) of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF RURAL RENAISSANCE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a rural renaissance bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Rural Renaissance Bonds.''.

(2) Section 6401(b)(1) of such Code is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

By Mr. DEWINE (for himself and Mr. KOHL):

S. 1797. A bill to implement antitrust enforcement enhancements and cooperation incentives; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today, with my colleague Senator DEWINE, to introduce the ''Antitrust Criminal Penalty Enhancement and Reform Act of 2003.'' This important bipartisan antitrust reform bill will strengthen the procedures under which antitrust settlements are reviewed by the courts, will increase criminal penalties for the most egregious antitrust violations, and will enhance the Justice Department's existing leniency program to encourage more antitrust criminal wrongdoers to come forward and thereby significantly assist the Department in detecting and preventing antitrust conspiracies.

This bill will accomplish three important goals. First, it will strengthen the review of the Justice Department's civil antitrust settlements under the Tunney Act. The Tunney Act is an important statute, passed nearly thirty years ago, that insures the public interest and consumers are protected when the Justice Department settles civil antitrust cases. The Tunney Act requires that, before entering any proposed consent judgment proposed by the Justice Department, the court must determine that the judgment is in the public interest. The statute also contains strict procedures for the public disclosure of proposed antitrust consent decrees and an opportunity for public comment.

The Tunney Act was passed in 1974 in response to concerns that some Justice Department settlements were motivated by inappropriate political pressure and were simply inadequate to restore competition or protect consumers. Congress concluded that review by the district courts to be an essential safeguard to deter the Justice Department from settling cases without regard for the public interest or the interest of affected consumers. The Tunney Act was enacted to end the then-prevalent practice of district judges ''rubber stamping'' antitrust consent decrees.

Unfortunately, in recent years, many courts—including specifically the U.S. Court of Appeals for the District of Columbia Circuit—have misconstrued the plain meaning of the Tunney Act and have returned to the practice of ''rubber stamp'' review of antitrust settlements. The controlling precedent in the D.C. Circuit is now that trial courts must enter antitrust consent decrees as long as they do not make a ''mockery of the judicial power.'' This standard is contrary to the intent of the Tunney Act and effectively strips the courts of the ability to engage in meaningful review of antitrust settlements.

Our bill will restore the original intent of the Tunney Act by First, providing that courts are to independently determine that antitrust settlements are in the public interest, second, setting forth a specific list of factors that a court must examine in the course of its public interest review—rather than may consider as the statute is currently written, and third, requiring the government establish that substantial evidence and reasoned analysis supports the government's belief that the consent judgment is in the public interest. These provisions will make clear that the court has the authority to conduct a meaningful review to ensure that antitrust settlements are not contrary to the public interest, or to competition.

Second, the bill will enhance criminal penalties for those who violate our antitrust laws. It will increase the maximum corporate penalty from $10 to $100 million, will increase the maximum individual fine from $350,000 to $1 million, and increase the maximum jail term for individuals who are convicted of criminal antitrust violations from three to ten years. These changes will send the proper message that criminal antitrust violations—crimes such as price fixing and bid rigging—committed by business executives in a boardroom are serious offense that steal from American consumers just as effectively as does a street criminal with a gun. We have all learned through unfortunate experience in the last few years at some of our largest at most respected corporations the serious consequences of crime in the boardroom, with literally tens of millions of dollars being looted from shareholders. These examples of corporate malfeasance teach us that criminal sanctions for white collar crime must be serious enough to deter such misbehavior, and our bill will help ensure our antitrust penalties are strong enough to accomplish this mission.

Finally, this bill will give the Justice Department significant new tools under its antitrust leniency program. The leniency program rewards the first member of a criminal antitrust conspiracy to admit its crime to the Justice Department by granting the wrongdoer criminal amnesty. This is an important tool for law enforcement officials to detect and break up cartels that fix prices and limit supply in our economy. This new provision will give the Justice Department the ability to offer those applying for leniency the additional reward of only facing actual damages in civil suits arising out of the antitrust conspiracy, rather than the treble damage liability to which they would otherwise be subject. This statutory change will remove a significant disincentive to those who would be likely to seek criminal amnesty and should result in a substantial increase in the number of antitrust conspiracies being detected.

Each of these three reforms are important measures will significantly enhance the enforcement of our nation's antitrust laws. I urge my colleagues to support this important measure.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 253—TO RECOGNIZE THE EVOLUTION AND IMPORTANCE OF MOTORSPORTS

Mr. CAMPBELL (for himself, Mr. KYL, and Mr. NELSON of Florida) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 253

Whereas on March 26, 1903, an automotive race was held on a beach in Volusia County, Florida, inaugurating 100 years of motorsports;

Whereas 100 years later, motorsports are the fastest growing sports in the country;

Whereas races occur at hundreds of motorsport facilities in all 50 States;

Whereas racing fans can enjoy a wide variety of motorsports sanctioned by organizations that include Championship Auto Racing Teams (CART), Grand American Road Racing (Grand Am), Indy Racing League (IRL), International Motorsports Association (IMSA), National Association for Stock Car Automobile Racing (NASCAR), National Hot Road Association (NHRA), Sports Car Club of America (SCCA), and United States Auto Club (USAC);

Whereas the research and development of vehicles used in motorsports have directly contributed to improvements in safety and technology for the automobiles and motor vehicles used by hundreds of millions of Americans;

Whereas 13,000,000 fans will attend NASCAR races alone in 2003;

Whereas fans of all ages spend days at motorsport facilities participating in a variety of interactive theme and amusement activities surrounding races;

Whereas motorsport facilities that provide these theme and amusement activities contribute millions of dollars into local economies;

Whereas motorsports make a significant contribution to the national economy; and

Whereas tens of millions of people in the United States enjoy the excitement and speed of motorsports every week: Now, therefore, be it

Resolved, That the Senate recognizes the evolution of motorsports and honors those who have helped create and build this great American pastime.

Mr. CAMPBELL. Mr. President, today I am submitting a resolution that recognizes the importance of motorsports in America and their century of evolution. 100 years ago last March, Ormond-Daytona Beach in Volusia County, Florida was the venue for the very first annual ''Winter Automobile Racing Meet.'' This race is now recognized as the genesis of organized auto racing, giving Ormond-Daytona Beach the title of ''Birthplace of Speed.'' In the decades that have followed, motorsports have evolved from scattered impromptu events to the second most popular sport in the United States.

Motorsports is now the fastest growing sport in the country, drawing millions of spectators and tens of millions of television viewers each year. For example, 13 million fans will attend NASCAR races alone in 2003. Millions of additional fans will attend races sanctioned by the Automobile Racing Club of America, (ACRA); Championship Auto Racing Teams (CART); Indy Racing League (IRL); and the Sports Car Club of America (SCCA).

Tracks are found throughout the country, with over 900 facilities in all 50 States hosting races sponsored by sanctioning bodies. These tracks make significant contributions to the economies of our communities, ranging from smaller facilities that host weekly racing series to the largest superspeedways such as Talladega and Daytona.

Fans travel hundreds and sometimes thousands of miles to attend these races, frequently arriving several days ahead of the headline event. Once at the destination track, they enjoy a variety of interactive entertainment attractions, including racing simulators, concerts, memorabilia vendors, hospitality facilities, opportunities to meet drivers, tours of the track and garage areas, etc. Motorsports entertainment facilities are amusement parks, dedicated to the themes of speed and competition.

My resolution today recognizes the importance and growth of motorsports. I urge my colleagues to support this resolution, which honors the motorsports entertainment industry for its impressive contributions to the national economy and its ongoing evolution.

SENATE RESOLUTION 254—COMMENDING THE FLORIDA MARLINS BASEBALL TEAM FOR WINNING THE 2003 WORLD SERIES

Mr. NELSON of Florida (for himself and Mr. GRAHAM of Florida) submitted the following resolution; which was considered and agreed to:

S. RES. 254

Whereas on October 25, 2003, the Florida Marlins defeated the New York Yankees, 2 to 0, in Game 6 of the World Series, to capture their second World Series title in the 11 seasons of the franchise;

Whereas the Florida Marlins became the first visiting team to celebrate a World Series championship in Yankee Stadium since the Los Angeles Dodgers in 1981;

Whereas under the leadership of manager Jack McKeon, general manager Larry Beinfest, and team owner Jeffrey Loria, the Marlins compiled the best record in baseball since May 23, 2003, becoming only the ninth team in Major League Baseball history to rebound from at least 10 games under .500 to reach the playoffs;

Whereas each player, manager, coach, trainer, and administrator of the Florida Marlins contributed to a magical turnaround that resulted in the Florida Marlins reaching the pinnacle of the sport, a World Series Championship;

Whereas the manager of the Florida Marlins, Jack McKeon, became the oldest manager in Major League Baseball history to win the World Series, and led Florida to the title after joining the team in May of 2003;

Whereas Florida Marlins pitcher Josh Beckett was named World Series Most Valuable Player, after pitching a complete game, 5 hit shutout, on 3 days rest in Yankee Stadium during Game 6 of the World Series;

Whereas young stars like Miguel Cabrera, Juan Pierre, and Luis Castillo combined with established veterans like Ivan Rodriguez and Jeff Conine to produce an exciting, never-say-die team that won over fans around the country during an unexpected march to the World Series;

Whereas the Florida Marlins upset the San Francisco Giants in 4 games to win the Division Series, then stunned the Chicago Cubs by coming back from a 3 games to 1 deficit to win the National League Championship Series in 7 games; and

Whereas fans of the Florida Marlins and the South Florida community demonstrated commendable team support and pride: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Florida Marlins for winning the 2003 World Series;

(2) recognizes the achievements of the players, coaches, and support staff who were instrumental in securing a second World Series title for the Florida Marlins;

(3) commends the support and pride of the fans of the Florida Marlins; and

(4) directs the Secretary of the Senate to transmit for appropriate display an enrolled copy of this resolution to—

(A) the owner of the Florida Marlins, Jeffrey Loria;

(B) the general manager of the Florida Marlins, Larry Beinfest;

(C) the manager of the Florida Marlins, Jack McKeon; and

(D) each player and coach of the 2003 World Series Champion Florida Marlins baseball team.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2025. Mrs. BOXER (for herself, Mrs. CLINTON, and Mr. DAYTON) proposed an amendment to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

SA 2026. Mrs. BOXER (for herself and Mrs. CLINTON) proposed an amendment to the bill H.R. 1904, supra.

SA 2027. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. DODD, Mr. SCHUMER, Mrs. CLINTON, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1904, supra; which was ordered to lie on the table.

SA 2028. Mr. LIEBERMAN (for himself, Mr. MCCAIN, Ms. SNOWE, Mrs. FEINSTEIN, Mr. CHAFEE, Mr. DURBIN, Mr. AKAKA, Mrs. MURRAY, Mr. LAUTENBERG, Mr. EDWARDS, Mr. BIDEN, Mr. CARPER, Mr. NELSON, of Florida, Mr. CORZINE, and Ms. CANTWELL) proposed an amendment to the bill S. 139, to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that could be used interchangably with passenger vehicle fuel economy standard credits, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances.

SA 2029. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2025. Mrs. BOXER (for herself, Mrs. CLINTON, and Mr. DAYTON) proposed an amendment to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE . FIREFIGHTERS MEDICAL MONITORING ACT

SEC. 1. SHORT TITLE.

This Title shall be referred to as the ''Firefighters Medical Monitoring Act of 2003''.

SECTION 2. MONITORING OF FIREFIGHTERS IN DISASTER AREAS.

(a) IN GENERAL.—The National Institute for Occupational Safety and Health shall monitor the long-term medical health of those firefighters who fought fires in any area declared a disaster area by the Federal Government.

(b) HEALTH MONITORING.—The long-term health monitoring referred to in subsection (a) shall include, but not be limited to, pulmonary illness, neurological damage, and cardiovascular damage, and shall utilize the medical expertise in the local areas affected.

(c) AUTHORIZATION.—To carry out this Title, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2004 through 2008.

SA 2026. Mrs. BOXER (for herself and Mrs. CLINTON) proposed an amendment to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE . DISASTER AIR QUALITY MONITORING ACT

SEC. 1. SHORT TITLE.

This Title shall be referred to as the ''Disaster Air Quality Monitoring Act of 2003''.

SECTION 2. MONITORING OF AIR QUALITY IN DISASTER AREAS.

(a) IN GENERAL.—No later than six (6) months after the enactment of this legislation, the Environmental Protection Agency shall provide each of its regional offices a mobile air pollution monitoring network to monitor the emissions of hazardous air pollutants in areas declared a disaster as referred to in subsection (b), and publish such information on a daily basis on its web site and in other forums, until such time as the Environmental Protection Agency has determined that the danger has subsided.

(b) The areas referred to in subsection (a) are those areas declared a disaster area by the Federal Government.

(c) The monitoring referred to in subsection (a) shall include the continuous and spontaneous monitoring of hazardous air pollutants, as defined in the Public Law 95–95 section 112(b).

(d) AUTHORIZATION.—To carry out this Title, there are authorized to be appropriated $8,000,000.

SA 2027. Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. DODD, Mr. SCHUMER, Mrs. CLINTON, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—HIGHLANDS STEWARDSHIP AREA

SECTION ___01. SHORT TITLE.

This title may be cited as the ''Highlands Stewardship Area Act''.

SEC. ___02. FINDINGS.

Congress finds that—

(1) the Highlands region is a physiographic province that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut;

(2) the Highlands region is an environmentally unique area that—

(A) provides clean drinking water to more than 15,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, including habitat for 247 threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains recreational resources for 14,000,000 visitors annually; and

(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits;

(3) an estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region;

(4) more than 1,400,000 people live in the Highlands region;

(5) the Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve water, forest and agricultural resources, wildlife habitat, recreational areas, and historic sites while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner;

(6) continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources;

(7) the water, forest, wildlife, recreational, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant;

(8) the national significance of the Highlands region has been documented in—

(A) the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Redevelopment Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition fiscal year 2001–2006;

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region;

(9) the Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, restore, promote, or interpret resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail;

(J) the United States Military Academy at West Point, New York;

(K) the Highlands National Millenium Trail;

(L) the Picatinny Arsenal, New Jersey;

(M) the Great Swamp National Wildlife Refuge;

(N) the proposed Crossroads of the Revolution National Heritage Area;

(O) the proposed Musconetcong National Scenic and Recreational River in New Jersey; and

(P) the Farmington River Wild and Scenic Area in Connecticut;

(10) it is in the interest of the United States to protect, conserve, and restore the resources of the Highlands region for the residents of, and visitors to, the Highlands region;

(11) the States of Connecticut, New Jersey, New York, and Pennsylvania and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, restoring and promoting the resources of the Highlands region; and

(12) because of the longstanding Federal practice of assisting States in creating, protecting, conserving, and restoring areas of significant natural and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States and units of local government in the Highlands region, protect, restore, and preserve the water, forest, agricultural, wildlife, recreational, and cultural resources of the Highlands region.

SEC. ___03. PURPOSES.

The purposes of this title are—

(1) to recognize—

(A) the importance of the water, forest, agricultural, wildlife, recreational, and cultural resources of the Highlands; and

(B) the national significance of the Highlands region to the United States;

(2) to authorize the Secretary of the Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation land in the Highlands region; and

(3) to continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, units of local government, and private forest and farm landowners in the conservation and stewardship of the land and natural resources in the Highlands region.

SEC. ___04. DEFINITIONS.

In this title:

(1) HIGHLANDS REGION.—The term ''Highlands region'' means the physiographic province, defined by the Reading Prong and ecologically similar adjacent upland areas, that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) HIGHLANDS STATE.—The term ''Highlands State'' means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York;

(D) the State of Pennsylvania; and

(E) any agency or department of any of those States (including the Palisades Interstate Park Commission).

(3) HIGHLANDS STEWARDSHIP AREA.—The term ''Highlands Stewardship Area'' means the stewardship area designated under section ___05.

(4) LAND CONSERVATION PARTNERSHIP PROJECT.—The term ''land conservation partnership project'' means a project in which a Highlands State acquires from a willing seller land or an interest in land in the Highlands Stewardship Area for the purpose of permanently protecting, conserving, or preserving the land or interest in the land through a partnership with the Federal Government.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(6) STUDY.—The term ''study'' means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.

(7) UPDATE.—The term ''update'' means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.

SEC. ___05. DESIGNATION OF HIGHLANDS STEWARDSHIP AREA.

(a) DESIGNATION.—The Secretary and Secretary of the Interior may designate the Highlands Stewardship Area, to be composed of portions of the region identified by the Forest Service as having high conservation values.

(b) CONSULTATION AND RESOURCE ANALYSES.—In designating the Highlands Stewardship Area, the Secretary and the Secretary of the Interior shall—

(1) consult with the Governors of the Highlands States and units of local government; and

(2) use the study, the update, and any additional studies conducted by the Forest Service in the Highlands region.

SEC. ___06. LAND CONSERVATION PARTNERSHIP PROJECTS.

(a) IN GENERAL.—Annually, the Governors of the Highlands States, with input from interested units of local government and the public, may jointly identify land conservation partnership projects within the Highlands Stewardship Area that shall be submitted to the Secretary of the Interior for consideration under subsection (b).

(b) DESIGNATION OF PROJECTS.—From among the projects submitted under subsection (a), the Secretary of the Interior, in consultation with the Secretary, shall annually—

(1) designate land conservation partnership projects that are eligible to receive financial assistance under this section; and

(2) submit proposals for the projects to Congress.

(c) CONDITIONS.—

(1) IN GENERAL.—To be eligible for financial assistance under subsection (a), a Highlands State shall enter into an agreement with the Secretary of the Interior that—

(A) identifies—

(i) the Highlands State that will own or hold and manage the land or interest in land; and

(ii) the source of funds to provide the non-Federal share under paragraph (2);

(B) describes the management objectives for the land that will ensure permanent protection and use of the land for the purpose for which the assistance is provided;

(C) provides that if the Highlands State converts, uses, or disposes of the project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States may—

(i) seek specific performance of the conditions of financial assistance in United States District Court; or

(ii) seek reimbursement from the Highlands State in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(I) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(II) the amount by which the financial assistance increased the value of the land or interest in land; and

(D) provides that the land conservation partnership project shall be consistent with areas identified as having high conservation value in—

(i) the Forest Service study and update, including—

(I) Important Areas (study);

(II) Conservation Focal Areas (update);

(III) Conservation Priorities (update); and

(IV) land identified as having higher or highest resource value in the Conservation Values Assessment (update); or

(ii) any similar study conducted by the Forest Service in the Highlands region.

(2) COST-SHARING REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this subsection shall not exceed 50 percent of the cost of the land conservation partnership project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior from the general funds of the Treasury or the Land and Water Conservation Fund to carry out this section $25,000,000 for each of fiscal years 2005 through 2014, to remain available until expended.

SEC. ___07. DEPARTMENT OF AGRICULTURE PROGRAMS IN THE HIGHLANDS REGION.

(a) IN GENERAL.—To meet land resource goals of, and the stewardship, scientific, and conservation challenges identified in, the study, update, and any future study that the Forest Service may undertake in the Highlands Region, the Secretary (acting through the Chief of the Forest Service), in consultation with the Chief of the Natural Resource Conservation Service, shall continue to assist the Highlands States, units of local government, and private forest and farm landowners in the conservation and stewardship of the land and natural resources in the Highlands region.

(b) DUTIES.—The Secretary shall—

(1) in consultation with the Highlands States and consistent with this title, undertake studies and research in the Highlands Region;

(2) make the findings of the study publicly available and update and maintain a public dialogue regarding implementation; and

(3) assist the Highland States, units of local government, individual landowners, and private organizations in identifying and using technical and financial assistance programs provided by the Forest Service and other units of the Department of Agriculture.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out subsection (b) $1,000,000 for each of fiscal years 2005 through 2014.

SEC. ___08. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.

(a) EFFECT OF TITLE.—Nothing in this title—

(1) requires any private property owner to permit public access (including Federal, State, or local government access) to private property; or

(2) modifies any provision of Federal, State, or local law with regard to public access to or use of private land.

(b) LIABILITY.—Designation of the Highlands Stewardship Area shall not create any liability, or have any effect on any liability under any other law, of any private property owner with respect to any person injured on private property.

(c) LAND USE.—Nothing in this title modifies any authority of the Federal Government or State or local government to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HIGHLANDS STEWARDSHIP AREA PROGRAMS.—Nothing in this title requires the owner of any private property located within the Highlands Stewardship Area to participate in the land conservation program, financial or technical assistance program, or any other program established under this title.

(e) PURCHASE OF LAND OR INTEREST IN LAND FROM WILLING SELLERS.—Funds made available under this Act may be used to purchase land or interests in land from willing sellers only.

SA 2028. Mr. LIEBERMAN (for himself, Mr. MCCAIN, Ms. SNOWE, Mrs. FEINSTEIN, Mr. CHAFEE, Mr. DURBIN, Mr. AKAKA, Mrs. MURRAY, Mr. LAUTENBERG, Mr. EDWARDS, Mr. BIDEN, Mr. CARPER, Mr. NELSON of Florida, Mr. CORZINE, and Ms. CANTWELL) proposed an amendment to the bill S. 139, to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances that could be used interchangable with passenger vehicle fuel economy standard credits, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Climate Stewardship Act of 2003''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

Title I—Federal Climate Change Research and Related Activities.

Sec. 101. National Science Foundation fellowships.
Sec. 102. Commerce Department study of technology transfer barriers.
Sec. 103. Report on United States impact of Kyoto protocol.
Sec. 104. Research grants.
Sec. 105. Abrupt climate change research.
Sec. 106. NIST greenhouse gas functions.
Sec. 107. Development of new measurement technologies.
Sec. 108. Enhanced environmental measurements and standards.
Sec. 109. Technology development and diffusion.
Sec. 110. Agricultural outreach program.

Title II—National Greenhouse Gas Database

Sec. 201. National greenhouse gas database and registry established.
Sec. 202. Inventory of greenhouse gas emissions for covered entities.
Sec. 203. Greenhouse gas reduction reporting.
Sec. 204. Measurement and verification.

Title III—Market-driven Greenhouse Gas Reductions

Subtitle A—Emission Reduction Requirements; Use of Tradeable Allowances

Sec. 301. Covered entities must submit allowances for emissions.
Sec. 302. Compliance.
Sec. 303. Borrowing against future reductions.
Sec. 304. Other uses of tradeable allowances.
Sec. 305. Exemption of source categories.

Subtitle B—Establishment and Allocation of Tradeable Allowances

Sec. 331. Establishment of tradeable allowances.
Sec. 332. Determination of tradeable allowance allocations.
Sec. 333. Allocation of tradeable allowances.
Sec. 334. Ensuring target adequacy.
Sec. 335. Initial allocations for early participation and accelerated participation.
Sec. 336. Bonus for accelerated participation.

Subtitle C—Climate Change Credit Corporation

Sec. 351. Establishment.
Sec. 352. Purposes and functions.

Subtitle D—Sequestration Accounting; Penalties

Sec. 371. Sequestration accounting.
Sec. 372. Penalties.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term ''baseline'' means the historic greenhouse gas emission levels of an entity, as adjusted upward by the Administrator to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 201(c)(1); and

(B) relevant standards and methods developed under this title.

(3) CARBON DIOXIDE EQUIVALENTS.—The term ''carbon dioxide equivalents'' means, for each greenhouse gas, the amount of each such greenhouse gas that makes the same contribution to global-warming as one metric ton of carbon dioxide, as determined by the Administrator.

(4) COVERED SECTORS.—The term ''covered sectors'' means the electricity, transportation, industry, and commercial sectors, as such terms are used in the Inventory.

(5) COVERED ENTITY.—The term ''covered entity'' means an entity (including a branch, department, agency, or instrumentality of Federal, State, or local government) that—

(A) owns or controls a source of greenhouse gas emissions in the electric power, industrial, or commercial sectors of the United States economy (as defined in the Inventory), refines or imports petroleum products for use in transportation, or produces or imports hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride; and

(B) emits, from any single facility owned by the entity, over 10,000 metric tons of greenbouse gas per year, measured in units of carbon dioxide equivalents, or produces or imports—

(i) petroleum products that, when combusted, will emit,

(ii) hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride that, when used, will emit, or

(iii) other greenhouse gases that, when used, will emit,

over 10,000 metric tons of greenhouse gas per year, measured in units of carbon dioxide equivalents.

(6) DATABASE.—The term ''database'' means the national greenhouse gas database established under section 201.

(7) DIRECT EMISSIONS.—The term ''direct emissions'' means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(8) FACILITY.—The term ''facility'' means a building, structure, or installation located on any 1 or more contiguous or adjacent properties of an entity in the United States.

(9) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; and

(F) sulfur hexafluoride.

(10) INDIRECT EMISSIONS.—The term ''indirect emissions'' means greenhouse gas emissions that are—

(A) a result of the activities of an entity; but

(B) emitted from a facility owned or controlled by another entity.

(11) INVENTORY.—The term ''Inventory'' means the Inventory of U.S. Greenhouse Gas Emissions and Sinks, prepared in compliance with the United Nations Framework Convention on Climate Change Decision 3/CP.5).

(12) LEAKAGE.—The term ''leakage'' means—

(A) an increase in greenhouse gas emissions by one facility or entity caused by a reduction in greenhouse gas emissions by another facility or entity; or

(B) a decrease in sequestration that is caused by an increase in sequestration at another location.

(13) PERMANENCE.—The term ''permanence'' means the extent to which greenhouse gases that are sequestered will not later be returned to the atmosphere.

(14) REGISTRY.—The term ''registry'' means the registry of greenhouse gas emission reductions established under section 201(b)(2).

(15) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(16) SEQUESTRATION.—

(A) IN GENERAL.—The term ''sequestration'' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(B) INCLUSIONS.—The term ''sequestration'' includes—

(i) agricultural and conservation practices;

(ii) reforestation;

(iii) forest preservation; and

(iv) any other appropriate method of capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

(C) EXCLUSIONS.—The term ''sequestration'' does not include—

(i) any conversion of, or negative impact on, a native ecosystem; or

(ii) any introduction of non-native species.

(17) SOURCE CATEGORY.—The term ''source category'' means a process or activity that leads to direct emissions of greenhouse gases, as listed in the Inventory.

(18) STATIONARY SOURCE.—The term ''stationary source'' means generally any source of greenhouse gases except those emissions resulting directly from an engine for transportation purposes.

TITLE I—FEDERAL CLIMATE CHANGE RESEARCH AND RELATED ACTIVITIES.

SEC. 101. NATIONAL SCIENCE FOUNDATION FELLOWSHIPS.

The Director of the National Science Foundation shall establish a fellowship program for students pursuing graduate studies in global climate change, including capability in observation, analysis, modeling, paleoclimatology, consequences, and adaptation.

SEC. 102. COMMERCE DEPARTMENT STUDY OF TECHNOLOGY TRANSFER BARRIERS.

(a) STUDY.—The Assistant Secretary of Technology Policy at Department of Commerce shall conduct a study of technology transfer barriers, best practices, and outcomes of technology transfer activities at Federal laboratories related to the licensing and commercialization of energy efficient technologies, and other technologies that, compared to similar technology in commercial use, result in reduced emissions of greenhouse gases or increased sequestration of greenhouse gases. The study shall be submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science within 6 months after the date of enactment of this Act. The Assistant Secretary shall work with the existing interagency working group to address identified barriers.

(b) AGENCY REPORT TO INCLUDE INFORMATION ON TECHNOLOGY TRANSFER INCOME AND ROYALTIES.—Paragraph (2)(B) of section 11(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(f)) is amended—

(1) by striking ''and'' after the semicolon in clause (vi);

(2) by redesignating clause (vii) as clause (ix); and

(3) by inserting after clause (vi) the following:

''(vii) the number of fully-executed licenses which received royalty income in the preceding fiscal year for climate-change or energy-efficient technology;

''(viii) the total earned royalty income for climate-change or energy-efficient technology; and''.

(c) INCREASED INCENTIVES FOR DEVELOPMENT OF CLIMATE-CHANGE OR ENERGY-EFFICIENT TECHNOLOGY.—Section 14(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)) is amended—

(1) by striking ''15 percent,'' in paragraph (1)(A) and inserting ''15 percent (25 percent for climate change-related technologies),''; and

(2) by inserting ''($250,000 for climate change-related technologies)'' after ''$150,000'' each place it appears in paragraph (3).

SEC. 103. REPORT ON UNITED STATES IMPACT OF KYOTO PROTOCOL.

Within 6 months after the date of enactment of this Act, the Secretary shall execute a contract with the National Academy of Science for a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science on the effects that the entry into force of the Kyoto Protocol without United States participation will have on—

(1) United States industry and its ability to compete globally;

(2) international cooperation on scientific research and development; and

(3) United States participation in international environmental climate change mitigation efforts and technology deployment.

SEC. 104. RESEARCH GRANTS.

Section 105 of the Global Change Research Act of 1990 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) RESEARCH GRANTS.—

''(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being addressed by Federal agencies.

''(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list for the National Science Foundation.

''(3) FUNDING THROUGH NSF.—

''(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

''(B) AUTHORIZATION.—For fiscal year 2004 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $25,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.''.

SEC. 105. ABRUPT CLIMATE CHANGE RESEARCH.

(a) IN GENERAL.—The Secretary, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change designed—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify, and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate these mechanisms into advanced geophysical models of climate change; and

(4) to test the output of these models against an improved global array of records of past abrupt climate changes.

(b) ABRUPT CLIMATE CHANGE DEFINED.—In this section, the term ''abrupt climate change'' means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 2004 $60,000,000 to carry out this section, such sum to remain available until expended.

SEC. 106. NIST GREENHOUSE GAS FUNCTIONS.

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272 (c)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (21);

(2) by redesignating paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

''(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will facilitate activities that reduce emissions of greenhouse gases or increase sequestration of greenhouse gases, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and''.

SEC. 107. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

To facilitate implementation of section 204, the Secretary'' shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies to calculate greenhouse gas emissions or reductions for which no accurate or reliable measurement technology exists. The program shall include—

(1) technologies (including remote sensing technologies) to measure carbon changes and other greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices; and

(2) technologies to calculate non-carbon dioxide greenhouse gas emissions from transportation.

SEC. 108. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

''SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

''(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 3(8) of the Climate Stewardship Act of 2003) and of facilitating implementation of section 204 of that Act.

''(b) RESEARCH PROGRAM.—

''(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

''(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation. with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

''(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;

''(B) to assist in establishing a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;

''(C) that will be exchanged internationally, as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouse gases; and

''(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.

''(c) NATIONAL MEASUREMENT LABORATORIES.—

''(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.

''(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

''(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;

''(B) developing chemical processes to be used by industry that, compared to similar processes in commercial use, result in reduced emissions of greenhouse gases or increased sequestration of greenhouse gases; and

''(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low- or no-emission technologies into building designs.

''(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials; artificial intelligence-aided design procedures for building subsystems and 'smart buildings', and improved test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

''(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test. standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.''.

SEC. 109. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to promote the use, by the more than 380,000 small manufacturers, of technologies and techniques that result in reduced emissions of greenhouse gases or increased sequestration of greenhouse gases.

SEC. 110. AGRICULTURAL OUTREACH PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, acting through the Global Change Program Office and in consultation with the heads of other appropriate departments and agencies, shall establish the Climate Change Education and Outreach Initiative Program to educate, and reach out to, agricultural organizations and individual farmers on global climate change.

(b) PROGRAM COMPONENTS.—The program—

(1) shall be designed to ensure that agricultural organizations and individual farmers receive detailed information about—

(A) the potential impact of climate change on their operations and well-being;

(B) market-driven, economic opportunities that may come from storing carbon in soils and vegetation, including emerging private sector markets for carbon storage; and

(C) techniques for measuring, monitoring, verifying, and inventorying such carbon capture efforts;

(2) may incorporate existing efforts in any area of activity referenced in paragraph (1) or in related areas of activity;

(3) shall provide—

(A) outreach materials to interested parties;

(B) workshops; and

(C) technical assistance; and

(4) may include the creation and development of regional centers on climate change or coordination with existing centers (including such centers within NRCS and the Cooperative State Research Education and Extension Service).

TITLE II—NATIONAL GREENHOUSE GAS DATABASE

SEC. 201. NATIONAL GREENHOUSE GAS DATABASE AND REGISTRY ESTABLISHED.

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the Administrator, in coordination with the Secretary, the Secretary of Energy, the Secretary of Agriculture, and private sector and nongovernmental organizations, shall establish, operate, and maintain a database, to be known as the ''National Greenhouse Gas Database'', to collect, verify, and analyze information on greenhouse gas emissions by entities.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions and increases in greenhouse gas sequestrations.

(c) COMPREHENSIVE SYSTEM.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to implement a com prehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) REQUIREMENTS.—The Administrator shall ensure, to the maximum extent practicable, that—

(A) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the double-counting of greenhouse gas emissions or emission reductions reported by more than 1 reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions;

(v) to account for changes in registration of ownership of emission reductions resulting from a. voluntary private transaction between reporting entities; and

(vi) to clarify the responsibility for reporting in the case of any facility owned or controlled by more than 1 entity.

(3) SERIAL NUMBERS.—Through regulations promulgated under paragraph (1), the Administrator shall develop and implement a system that provides—

(A) for the verification of submitted emissions reductions registered under section 204;

(B) for the provision of unique serial numbers to identify the registered emission reductions made by an entity relative to the baseline of the entity;

(C) for the tracking of the registered reductions associated with the serial numbers; and

(D) for such action as may be necessary to prevent counterfeiting of the registered reductions.

SEC. 202. INVENTORY OF GREENHOUSE GAS EMISSIONS FOR COVERED ENTITIES.

(a) IN GENERAL.—Not later than July 1st of each calendar year after 2008, each covered entity shall submit to the Administrator a report that states, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(1) the total quantity of direct greenhouse gas emissions from stationary sources, expressed in units of carbon dioxide equivalents, except those reported under paragraph (3);

(2) the amount of petroleum products sold or imported by the entity and the amount of greenhouse gases, expressed in units of carbon dioxide equivalents, that would be emitted when these products are used for transportation in the United States, as determined by the Administrator under section 301(b);

(3) the amount of hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride, expressed in units of carbon dioxide equivalents, that are sold or imported by the entity and will ultimately be emitted in the United States, as determined by the Administrator under section 301(d); and

(4) such other categories of emissions as the Administrator determines in the regulations promulgated under section 201(c)(1) may be practicable and useful for the purposes of this Act, such as—

(A) indirect emissions from imported electricity, heat, and steam;

(B) process and fugitive emissions; and

(C) production or importation of greenhouse gases.

(b) COLLECTION AND ANALYSIS OF DATA.—The Administrator shall collect and analyze information reported under subsection (a) for use under title III.

SEC. 203. GREENHOUSE GAS REDUCTION REPORTING.

(a) IN GENERAL.—Subject to the requirements described in subsection (b)—

(1) a covered entity may register greenhouse gas emission reductions achieved after 1990 and before 2010 under this section; and

(2) an entity that is not a covered entity may register greenhouse gas emission reductions achieved at any time since 1990 under this section.

(b) REQUIREMENTS.—

(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline; and

(B) submit the report described in subsection (c)(1).

(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) REPORTS.—

(1) REQUIRED REPORT.—Not later than July 1st of the each calendar year beginning more than 2 years after the date of enactment of this Act, but subject to paragraph (3), an entity described in subsection (a) shall submit to the Administrator a report that states, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of direct greenhouse gas emissions from stationary sources, expressed in units of carbon dioxide equivalents;

(B) the amount of petroleum products sold or imported by the entity and the amount of greenhouse gases, expressed in units of carbon dioxide equivalents, that would be emitted when these products are used for transportation in the United States, as determined by the Administrator under section 301(b);

(C) the amount of hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride, expressed in units of carbon dioxide equivalents, that are sold or imported by the entity and will ultimately be emitted in the United States, as determined by the Administrator under section 301(d); and

(D) such other categories of emissions as the Administrator determines in the regulations promulgated under section 201(c)(1) may be practicable and useful for the purposes of this Act, such as—

(i) indirect emissions from imported electricity, heat, and steam;

(ii) process and fugitive emissions; and

(iii) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may (along with establishing a baseline and reporting emissions under this section)—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry and for other purposes; and

(B) submit to the Administrator, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 201(c)(1) and that relates to—

(i) any activity that resulted in the net reduction of the greenhouse gas emissions of the entity or a net increase in sequestration by the entity that were carried out during or after 1990 and before the establishment of the database, verified in accordance with regulations promulgated under section 201(c)(1), and submitted to the Administrator before the date that is 4 years after the date of enactment of this Act; and

(ii) with respect to the calendar year preceding the calendar year in which the information is submitted, any project or activity that resulted in the net reduction of the greenhouse gas emissions of the entity or a net increase in net sequestration by the entity.

(3) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for the Administrator to verify, in accordance with measurement and verification methods and standards developed under section 204, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) after accounting for any increases in indirect emissions described in paragraph (1)(C)(i); or

(ii) actual increases in net sequestration.

(4) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry, and that fails to submit a report required under this subsection shall be prohibited from using, or allowing another entity to use, its registered emissions reductions or increases in sequestration to satisfy the requirements of section 301.

(5) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 203, an entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to the Administrator.

(6) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The Administrator shall ensure that information in the database is—

(i) published; and

(ii) accessible to the public, including in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the Administrator determines that publishing or otherwise making available information described in that subparagraph poses a risk to national security or discloses confidential business information that can not be derived from information that is otherwise publicly available and that would cause competitive harm if published.

(7) DATA INFRASTRUCTURE.—The Administrator shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(8) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 201(c)(1) and implementing the database, the Administrator shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emissions in a manner that will encourage private sector trading and exchanges;

(B) the greenhouse gas reduction and sequestration measurement and estimation methods and standards applied in other countries, as applicable or relevant;

(C) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database; and

(D) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the database.

(d) ANNUAL REPORT.—The Administrator shall publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity'' and sector-by-sector analyses of the emissions and emission reductions reported;

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases; and

(5) describes the activity during the year covered by the period in the trading of greenhouse gas emission allowances.

SEC. 204. MEASUREMENT AND VERIFICATION.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish by rule, in coordination with the Administrator, the Secretary of Energy, and the Secretary of Agriculture, comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) REQUIREMENTS.—The methods and standards established under paragraph (1) shall include—

(A) a requirement that a covered entity use a continuous emissions monitoring system, or another system of measuring or estimating emissions that is determined by the Secretary to provide information with precision, reliability, accessibility, and timeliness similar to that provided by a continuous emissions monitoring system where technologically feasible;

(B) establishment of standardized measurement and verification practices for reports made by all entities participating in the registry taking into account—

(i) protocols and standards in use by entities requiring or desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions;

(iv) protocols to prevent a covered entity from avoiding the requirements of this Act by reorganization into multiple entities that are under common control; and

(v) such other factors as the Secretary, in consultation with the Administrator, determines to be appropriate;

(C) establishment of methods of—

(i) estimating greenhouse gas emissions, for those cases in which the Secretary determines that methods of monitoring, measuring or estimating such emissions with precision, reliability, accessibility, and timeliness similar to that provided by a continuous emissions monitoring system are not technologically feasible at present; and

(ii) reporting the accuracy of such estimations;

(D) establishment of measurement and verification standards applicable to actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(E) in coordination with the Secretary of Agriculture, standards to measure the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(E) establishment of such other measurement and verification standards as the Secretary, in consultation with the Secretary of Agriculture, the Administrator, and the Secretary of Energy, determines to be appropriate;

(F) establishment of standards for obtaining the Secretary's approval of the suitability of geological storage sites that include evaluation of both the geology of the site and the entity's capacity to manage the site; and

(G) establishment of other features that, as determined by the Secretary, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) REVIEW AND REVISION.—The Secretary shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) PUBLIC PARTICIPATION.—The Secretary shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The Secretary may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) AVAILABLE ARRANGEMENTS.—In obtaining any service described in paragraph (1), the Secretary may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

TITLE III—MARKET-DRIVEN GREENHOUSE GAS REDUCTIONS

SUBTITLE A—EMISSION REDUCTION REQUIREMENTS; USE OF TRADEABLE ALLOWANCES

SEC. 301. COVERED ENTITIES MUST SUBMIT ALLOWANCES FOR EMISSIONS.

(a) IN GENERAL—Beginning with calendar year 2010—

(1) each covered entity in the electric generation, industrial, and commercial sectors shall submit to the Administrator one tradeable allowance for every metric ton of greenhouse gases, measured in units of carbon dioxide equivalents, that it emits from stationary sources, except those described in paragraph (2);

(2) each producer or importer of hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride that is a covered entity shall submit to the Administrator one tradeable allowance for every metric ton of hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride, measured in units of carbon dioxide equivalents; that it produces or imports and that will ultimately be emitted in the United States, as determined by the Administrator under subsection (d) and

(3) each petroleum refiner or importer that is a covered entity shall submit one tradeable allowance for every unit of petroleum product it sells that will produce one metric ton of greenhouse gases, measured in units of carbon dioxide equivalents, as determined by the Administrator under subsection (b), when used for transportation.

(b) DETERMATION OF TRANSPORTATION SECTOR AMOUNT.—For the transportation sector, the Administrator shall determine the amount of greenhouse gases, measured in units of carbon dioxide. equivalents, that will be emitted when petroleum products are used for transportation.

(c) EXCEPTION FOR CERTAIN DEPOSITED EMISSIONS.—Notwithstanding subsection (a), a covered entity is not required to submit a tradeable allowance for any amount of greenhouse gas that would otherwise have been emitted from a facility under the ownership or control of that entity if—

(1) the emission is deposited in a geological storage facility approved by the Administrator under section 204(a)(2)(F); and

(2) the entity agrees to submit tradeable allowances for any portion of the deposited emission that is subsequently emitted from that facility.

(d) DETERMINATION OF HYDROFLUROCARBON, PERFLUOROCARBON, AND SULFUR HEXAFLUORIDE AMOUNT.—The Administrator shall determine the amounts of hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride, measured in units of carbon dioxide equivalents, that will be deemed to be emitted for purposes of this Act.

SEC. 302. COMPLIANCE.

(a) IN GENERAL.—

(1) SOURCE OF TRADEABLE ALLOWANCES USED.—A covered entity may use a tradeable allowance to meet the requirements of this section without regard to whether the tradeable allowance was allocated to it under subtitle B or acquired from another entity or the Climate Change Credit Corporation established under section 351.

(2) VERIFICATION BY ADMINISTRATOR.—At various times during each year, the Administrator shall determine whether each covered entity has met the requirements of this section. In making that determination, the Administrator shall—

(A) take into account the tradeable allowances submitted by the covered entity to the Administrator; and

(B) retire the serial number assigned to each such tradeable allowance.

(b) ALTERNATIVE MEANS OF COMPLIANCE.—For the years after 2010, a covered entity may satisfy up to 15 percent of its total allowance submission requirement under this section by—

(1) submitting tradeable allowances from another nation's market in greenhouse gas emissions if—

(A) the Secretary determines that the other nation's system for trading in greenhouse gas emissions is complete, accurate, and transparent and reviews that determination at least once every 5 years;

(B) the other nation has adopted enforceable limits on its greenhouse gas emissions which the tradeable allowances were issued to implement; and

(C) the covered entity certifies that the tradeable allowance has been retired unused in the other nation's market;

(2) submitting a registered net increase in sequestration, as registered in the database, adjusted, if necessary, to comply with the accounting standards and methods established under section 372;

(3) submitting a greenhouse gas emissions reduction (other than a registered net increase in sequestration) that was registered in the database by a person that is not a covered entity; or

(4) submitting credits obtained from the Administrator under section 303.

(c) DEDICATED PROGRAM FOR SEQUESTRATION IN AGRICULTURAL SOILS.—If a covered entity chooses to satisfy 15 percent of its total allowance submission requirements under the provisions of subsection (b), it shall satisfy up to 1.5 percent of its total allowance submission requirement by submitting registered net increases in sequestration in agricultural soils, as registered in the database, adjusted, if necessary, to comply with the accounting standards and methods established under section 371.

SEC. 303. BORROWING AGAINST FUTURE REDUCTIONS.

(a) IN GENERAL.—The Administrator shall establish a program under which a covered entity may—

(1) receive a credit in the current calendar year for anticipated reductions in emissions in a future calendar year; and

(2) use the credit in lieu of a tradeable allowance to meet the requirements of this Act for the current calendar year, subject to the limitation imposed by section 302(b).

(b) DETERMINATION OF TRADEABLE ALLOWANCE CREDITS.—The Administrator may

(b) DETERMINATION OF TRADEABLE ALLOWANCE CREDITS.—The Administrator may make credits available under subsection (a) only for anticipated reductions in emissions that—

(1) are attributable to the realization of capital investments in equipment, the construction, reconstruction, or acquisition of facilities, or the deployment of new technologies—

(A) for which the covered entity has executed a binding contract and secured, or applied for, all necessary permits and operating or implementation authority;

(B) that will not become operational within the current calendar year; and

(C) that will become operational and begin to reduce emissions from the covered entity within 5 years after the year in which the credit is used; and

(2) will be realized within 5 years after the year in which the credit is used.

(c) CARRYING COST.—If a covered entity uses a credit under this section to meet the requirements of this Act for a calendar year (referred to as the use year), the tradeable allowance requirement for the year from which the credit was taken (referred to as the source year) shall be increased by an amount equal to—

(1) 10 percent for each credit borrowed from the source year; multiplied by

(2) the number of years beginning after the use year and before the source year.

(d) MAXIMUM BORROWING PERIOD.—A credit from a year beginning more than 5 years after the current year may not be used to meet the requirements of this Act for the current year.

(e) FAILURE TO ACHIEVE REDUCTIONS GENERATING CREDIT.—If a covered entity that uses a credit under this section fails to achieve the anticipated reduction for which the credit was granted for the year from which the credit was taken, then—

(1) the covered entity's requirements under this Act for that year shall be increased by the amount of the credit, plus the amount determined under subsection (c);

(2) any tradeable allowances submitted by the covered entity for that year shall be counted first against the increase in those requirements; and

(3) the covered entity may not use credits under this section to meet the increased requirements.

SEC. 304. OTHER USES OF TRADEABLE ALLOWANCES.

(a) IN GENERAL.—Tradeable allowances may be sold, exchanged, purchased, retired, or used as provided in this section.

(b) INTERSECTOR TRADING.—Covered entities may purchase or otherwise acquire tradeable allowances from other covered sectors to satisfy the requirements of section 301.

(c) CLIMATE CHANGE CREDIT ORGANIZATION.—The Climate Change Credit Corporation established under section 351 may sell tradeable allowances allocated to it under section 332(a)(2) to any covered entity or to any investor, broker, or dealer in such tradeable allowances. The Climate Change Credit Corporation shall use all proceeds from such sales in accordance with the provisions of section 352.

(d) BANKING OF TRADEABLE ALLOWANCES.—Notwithstanding the requirements of section 301, a covered entity that has more than a sufficient amount of tradeable allowances to satisfy the requirements of section 301, may refrain from submitting a tradeable allowance to satisfy the requirements in order to sell, exchange, or use the tradeable allowance in the future.

SEC. 305. EXEMPTION OF SOURCE CATEGORIES.

(a) IN GENERAL.—The Administrator may grant an exemption from the requirements of this Act to a source category if the Administrator determines, after public notice and comment, that it is not feasible to measure or estimate emissions from that source category, until such time as measurement or estimation becomes feasible.

(b) REDUCTION OF LIMITATIONS.—If the Administrator exempts a source category under subsection (a), the Administrator shall also reduce the total tradeable allowances under section 331(a)(1) by the amount of greenhouse gas emissions that the exempted source category emitted in calendar year 2000, as identified in the 2000 Inventory.

(c) LIMITATION ON EXEMPTION.—The Administrator may not grant an exemption under subsection (a) to carbon dioxide produced from fossil fuel.

SUBTITLE B—ESTABLISHMENT AND ALLOCATION OF TRADEABLE ALLOWANCES

SEC. 331. ESTABLISHMENT OF TRADEABLE ALLOWANCES.

(a) IN GENERAL.—The Administrator shall promulgate regulations to establish tradeable allowances, denominated in units of carbon dioxide equivalents, for calendar years beginning after 2009, equal to—

(1) 5896 million metric tons, measured in units of carbon dioxide equivalents, reduced by

(2) the amount of emissions of greenhouse gases in calendar year 2000 from non-covered entities.

(b) SERIAL NUMBERS.—The Administrator shall assign a unique serial number to each tradeable allowance established under subsection (a), and shall take such action as may be necessary, to prevent counterfeiting of tradeable allowances.

(c) NATURE OF TRADEABLE ALLOWANCES.—A tradeable allowance is not a property right, and nothing in this title or any other provision of law limits the authority of the United States to terminate or limit a tradeable allowance.

(d) NON-COVERED ENTITY.—In this section:

(1) IN GENERAL.—The term ''non-covered entity'' means an entity that—

(A) owns or controls a source of greenhouse gas emissions in the electric power, industrial, or commercial sectors of the United States economy (as defined in the Inventory), refines or imports petroleum products for use in transportation, or produces or imports hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride; and

(B) is not a covered entity.

(2) EXCEPTION.—Notwithstanding paragraph (1), an entity that is a covered entity for any calendar year beginning after 2009 shall not be considered to be a non-covered entity for purposes of subsection (a) only because it emitted, or its products would have emitted, 10,000 metric tons or less of greenhouse gas, measured in units of carbon dioxide equivalents, in the year 2000.

SEC. 332. DETERMINATION OF TRADEABLE ALLOWANCE ALLOCATIONS.

(a) IN GENERAL.—The Secretary shall determine—

(1) the amount of tradeable allowances to be allocated to each covered sector of that sector's allotments; and

(2) the amount of tradeable allowances to be allocated to the Climate Change Credit Corporation established under section 351.

(b) ALLOCATION FACTORS.—In making the determination required by subsection (a), the Secretary shall consider—

(1) the distributive effect of the allocations on household income and net worth of individuals;

(2) the impact of the allocations on corporate income, taxes, and asset value;

(3) the impact of the allocations on income levels of consumers and on their energy consumption;

(4) the effects of the allocations in terms of economic efficiency;

(5) the ability of covered entities to pass through compliance costs to their customers;

(6) the degree to which the amount of allocations to the covered sectors should decrease over time; and

(7) the need to maintain the international competitiveness of United States manufacturing and avoid the additional loss of United States manufacturing jobs.

(c) ALLOCATION RECOMMENDATIONS AND IMPLEMENTATION.—Before allocating or providing tradeable allowances under subsection (a) and within 24 months after the date of enactment of this Act, the Secretary shall submit the determinations under subsection (a) to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, the House of Representatives Committee on Science, and the House of Representatives Committee on Energy and Commerce. The Secretary's determinations under paragraph (1), including the allocations and provision of tradeable allowances pursuant to that determination, are deemed to be a major rule (as defined in section 804(2) of title 5, United States Code), and subject to the provisions of chapter 8 of that title.

SEC. 333. ALLOCATION OF TRADEABLE ALLOWANCES.

(a) IN GENERAL.—Beginning with calendar year 2010 and after taking into account any initial allocations under section 334, the Administrator shall—

(1) allocate to each covered sector that sector's allotments determined by the Administrator under section 332 (adjusted for any such initial allocations and the allocation to the Climate Change Credit Corporation established under section 351); and

(2) allocate to the Climate Change Credit Corporation established under section 351 the tradeable allowances allocable to that Corporation.

(b) INTRASECTORIAL ALLOTMENTS.—The Administrator shall, by regulation, establish a process for the allocation of tradeable allowances under this section, without cost to covered entities, that will—

(1) encourage investments that increase the efficiency of the processes that produce greenhouse gas emissions;

(2) minimize the costs to the government of allocating the tradeable allowances;

(3) not penalize a covered entity for emissions reductions made before 2010 and registered with the database; and

(4) provide sufficient allocation for new entrants into the sector.

(c) POINT SOURCE ALLOCATION.—The Administrator shall allocate the tradeable allowances for the electricity generation, industrial, and commercial sectors to the entities owning or controlling the point sources of greenhouse gas emissions within that sector.

(d) HYDROFLUOROCARBONS, PERFLUOROCARBONS, AND SULFUR HEXAFLUORIDE.—The Administrator shall allocate the tradeable allowances for producers or importers of hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride to such producers or importers.

(e) SPECIAL RULE FOR ALLOCATION WITHIN THE TRANSPORTATION SECTOR.—The Administrator shall allocate the tradeable allowances for the transportation sector to petroleum refiners or importers that produce or import petroleum products that will be used as fuel for transportation.

(f) ALLOCATIONS TO CERTAIN STATES; RURAL ELECTRIC COOPERATIVES.—

(1) IN GENERAL.—The Administrator shall make the allocations described in paragraphs (2) and (3) each year at no cost. The

allocations shall be offset from the allowances allocated to the Climate Change Credit Corporation.

(2) STATE ALLOCATIONS.—The Administrator shall allocate, for all electric generating units located in a State in which the average heating value of coal consumed by electric generating units in 1999 was less than 7,000 Btu per pound, allowances in an amount equal to the greenhouse gas emissions of the units in 2000, multiplied by 1.3.

(3) RURAL ELECTRIC COOPERATIVES.—For each electric generating unit that is owned or operated by a rural electric cooperative and not taken into account for purposes of paragraph (2), the Administrator shall allocate allowances in an amount equal to the greenhouse gas emissions of each such unit in 2000, plus an amount equal to the average emissions growth expected for all such units.

SEC. 334. ENSURING TARGET ADEQUACY.

(a) IN GENERAL.—Beginning 2 years after the date of enactment of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall review the allowances established by section 331 no less frequently than biennially—

(1) to re-evaluate the levels established by that subsection, after taking into account the best available science and the most currently available data, and

(2) to re-evaluate the environmental and public health impacts of specific concentration levels of greenhouse gases,

to determine whether the allowances established by subsection (a) continue to be consistent with the objective of the United Nations' Framework Convention on Climate Change of stabilizing levels of greenhouse gas emissions at a level that will prevent dangerous anthropogenic interference with the climate system.

(b) REVIEW OF 2010 LEVELS.—The Under Secretary shall specifically review in 2008 the level established under section 331(a)(1), and transmit a report on his reviews, together with any recommendations, including legislative recommendations, for modification of the levels, to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, the House of Representatives Committee on Science, and the House of Representatives Committee on Energy and Commerce.

SEC. 335. INITIAL ALLOCATIONS FOR EARLY PARTICIPATION AND ACCELERATED PARTICIPATION.

Before making any allocations under section 333, the Administrator shall allocate—

(1) to any covered entity an amount of tradeable allowances equivalent to the amount of greenhouse gas emissions reductions registered by that covered entity in the national greenhouse gas database if—

(A) the covered entity has requested to use the registered reduction in the year of allocation;

(B) the reduction was registered prior to 2010; and

(C) the Administrator retires the unique serial number assigned to the reduction under section 201(c)(3); and

(2) to any covered entity that has entered into an accelerated participation agreement under section 336, such tradeable allowances as the Administrator has determined to be appropriate under that section.

SEC. 336. BONUS FOR ACCELERATED PARTICIPATION.

(a) IN GENERAL.—If a covered entity executes an agreement with the Administrator under which it agrees to reduce its level of greenhouse gas emissions to a level no greater than the level of its greenhouse gas emissions for calendar year 1990 by the year 2010, then, for the 6–year period beginning with calendar year 2010, the Administrator shall—

(1) provide additional tradeable allowances to that entity when allocating allowances under section 334 in order to recognize the additional emissions reductions that will be required of the covered entity;

(2) allow that entity to satisfy 20 percent of its requirements under section 301 by—

(A) submitting tradeable allowances from another nation's market in greenhouse gas emissions under the conditions described in section 312(b)(1);

(B) submitting a registered net increase in sequestration, as registered in the National Greenhouse Gas Database established under section 201, and as adjusted by the appropriate sequestration discount rate established under section 371; or

(C) submitting a greenhouse gas emission reduction (other than a registered net increase in sequestration) that was registered in the National Greenhouse Gas Database by a person that is not a covered entity.

(b) TERMINATION.—An entity that executes an agreement described in subsection (a) may terminate the agreement at any time.

(c) FAILURE TO MEET COMMITMENT.—If an entity that executes an agreement described in subsection (a) fails to achieve the level of emissions to which it committed by calendar year 2010—

(1) its requirements under section 301 shall be increased by the amount of any tradeable allowances provided to it under subsection (a)(1); and

(2) any tradeable allowances submitted thereafter shall be counted first against the increase in those requirements.

SUBTITLE C—CLIMATE CHANGE CREDIT CORPORATION

SEC. 351. ESTABLISHMENT.

(a) IN GENERAL.—The Climate Change Credit Corporation is established as a nonprofit corporation without stock. The Corporation shall not be considered to be an agency or establishment of the United States Government.

(b) APPLICABLE LAWS.—The Corporation shall be subject to the provisions of this title and, to the extent consistent with this title, to the District of Columbia Business Corporation Act.

(c) BOARD OF DIRECTORS.—The Corporation shall have a board of directors of 5 individuals who are citizens of the United States, of whom 1 shall be elected annually by the board to serve as chairman. No more than 3 members of the board serving at any time may be affiliated with the same political party. The members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate and shall serve for terms of 5 years.

SEC. 352. PURPOSES AND FUNCTIONS.

(a) TRADING.—The Corporation—

(1) shall receive and manage tradeable allowances allocated to it under section 333(a)(2); and

(2) shall buy and sell tradeable allowances, whether allocated to it under that section or obtained by purchase, trade, or donation from other entities; but

(3) may not retire tradeable allowances unused.

(b) USE OF TRADEABLE ALLOWANCES AND PROCEEDS.—

(1) IN GENERAL.—The Corporation shall use the tradeable allowances, and proceeds derived from its trading activities in tradeable allowances, to reduce costs borne by consumers as a result of the greenhouse gas reduction requirements of this Act. The reductions—

(A) may be obtained by buy-down, subsidy, negotiation of discounts, consumer rebates, or otherwise;

(B) shall be, as nearly as possible, equitably distributed across all regions of the United States; and

(C) may include arrangements for preferential treatment to consumers who can least afford any such increased costs.

(2) TRANSITION ASSISTANCE TO DISLOCATED WORKERS AND COMMUNITIES.—The Corporation shall allocate a percentage of the proceeds derived from its trading activities in tradeable allowances to provide transition assistance to dislocated workers and communities. Transition assistance may take the form of—

(A) grants to employers, employer associations, and representatives of employees—

(i) to provide training, adjustment assistance, and employment services to dislocated workers; and

(ii) to make income-maintenance and needs-related payments to dislocated workers; and

(B) grants to State and local governments to assist communities in attracting new employers or providing essential local government services.

(3) PHASE-OUT OF TRANSITION ASSISTANCE.—The percentage allocated by the Corporation under paragraph (2)—

(A) shall be 20 percent for 2010;

(B) shall be reduced by 2 percentage points each year thereafter; and

(C) may not be reduced below zero.

(4) TECHNOLOGY DEPLOYMENT PROGRAMS.—The Corporation shall establish and carry out a program, through direct grants, revolving loan programs, or other financial measures, to provide support for the deployment of technology to assist in compliance with this Act by distributing the proceeds from no less than 10 percent of the total allowances allocated to it. The support shall include the following:

(A) COAL GASIFICATION COMBINED-CYCLE AND GEOLOGICAL CARBON STORAGE PROGRAM.—The Corporation shall establish and carry out a program, through direct grants, to provide incentives for the repowering of existing facilities or construction of new facilities producing electricity or other products from coal gasification combined-cycle plants that capture and geologically store at least 90 percent of the carbon dioxide produced at the facility in accordance with requirements established by the Administrator to ensure the permanence of the storage and that such storage will not cause or contribute to significant adverse effects on public health or the environment. The Corporation shall ensure that no less than 20 percent of the funding under this program is distributed to rural electric cooperatives.

(B) AGRICULTURAL PROGRAMS.—The Corporation shall establish and carry out a program, through direct grants, revolving loan programs, or other financial measures, to provide incentives for greenhouse gas emissions reductions or net increases in greenhouse gas sequestration on agricultural lands. The program shall include incentives for—

(i) production of wind energy on agricultural lands;

(ii) agricultural management practices that achieve verified, incremental increases in net carbon sequestration, in accordance with the requirements established by the Administrator under section 371; and

(iii) production of renewable fuels that, after consideration of the energy needed to produce such fuels, result in a net reduction in greenhouse gas emissions.

SUBTITLE D—SEQUESTRATION ACCOUNTING; PENALTIES

SEC. 371. SEQUESTRATION ACCOUNTING.

(a) SEQUESTRATION ACCOUNTING.—If a covered entity uses a registered net increase in sequestration to satisfy the requirements of section 301 for any year, that covered entity shall submit information to the Administrator every 5 years thereafter sufficient to

allow the Administrator to determine, using the methods and standards created under section 204, whether that net increase in sequestration still exists. Unless the Administrator determines that the net increase in sequestration continues to exist, the covered entity shall offset any loss of sequestration by submitting additional tradeable allowances of equivalent amount in the calender year following that determination.

(b) REGULATIONS REQUIRED.—The Secretary, acting through the Under Secretary of Commerce for Science and Technology, in coordination with the Secretary of Agriculture, the Secretary of Energy, and the Administrator, shall issue regulations establishing the sequestration accounting rules for all classes of sequestration projects.

(c) CRITERIA FOR REGULATIONS.—In issuing regulations under this section, the Secretary shall use the following criteria:

(1) If the range of possible amounts of net increase in sequestration for a particular class of sequestration project is not more than 10 percent of the median of that range, the amount of sequestration awarded shall be equal to the median value of that range.

(2) If the range of possible amounts of net increase in sequestration for a particular class of sequestration project is more than 10 percent of the median of that range, the amount of sequestration awarded shall be equal to the fifth percentile of that range.

(3) The regulations shall include procedures for accounting for potential leakage from sequestration projects and for ensuring that any registered increase in sequestration is in addition that which would have occurred if this Act had not been enacted.

(d) UPDATES.—The Secretary shall update the sequestration accounting rules for every class of sequestration project at least once every 5 years.

SEC. 372. PENALTIES.

Any covered entity that fails to meet the requirements of section 301 for a year shall be liable for a civil penalty, payable to the Administrator, equal to thrice the market value (determined as of the last day of the year at issue) of the tradeable allowances that would be necessary for that covered entity to meet those requirements on the date of the emission that resulted in the violation.

SA 2029. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8___. INCREASE IN MAXIMUM FINES FOR VIOLATION OF PUBLIC LAND REGULATIONS AND ESTABLISHMENT OF MINIMUM FINE FOR VIOLATION OF PUBLIC LAND FIRE REGULATIONS DURING FIRE BAN.

(a) LANDS UNDER JURISDICTION OF BUREAU OF LAND MANAGEMENT.—Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) is amended—

(1) in the second sentence, by striking ''no more than $1,000'' and inserting ''as provided in title 18, United States Code,''; and

(2) by inserting after the second sentence the following: ''In the case of a regulation issued under this section regarding the use of fire by individuals on the public lands, if the violation of the regulation was the result of reckless conduct and occurred in an area subject to a complete ban on open fires, the fine may not be less than $500.''.

(b) NATIONAL PARK SYSTEM LANDS.—

(1) FINES.—Section 3 of the Act of August 25, 1916 (popularly known as the National Park Service Organic Act; 16 U.S.C. 3) is amended—

(A) by striking ''That the Secretary'' at the beginning of the section and inserting ''(a) REGULATIONS FOR USE AND MANAGEMENT OF NATIONAL PARK SYSTEM; ENFORCEMENT.—The Secretary'';

(B) by striking ''$500'' and inserting ''$10,000''; and

(C) by inserting after the first sentence the following: ''In the case of a rule or regulation issued under this subsection regarding the use of fire by individuals on such lands, if the violation of the rule or regulation was the result of reckless conduct and occurred in an area subject to a complete ban on open fires, the fine may not be less than $500.''.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) by striking ''He may also'' the first place it appears and inserting the following: ''(b) SPECIAL MANAGEMENT AUTHORITIES.—The Secretary of the Interior may'';

(B) by striking ''He may also'' the second place it appears and inserting ''The Secretary may''; and

(C) by striking ''No natural,'' and inserting the following:

''(c) LEASE AND PERMIT AUTHORITIES.—No natural''.

(c) NATIONAL FOREST SYSTEM LANDS.—The eleventh undesignated paragraph under the heading ''SURVEYING THE PUBLIC LANDS'' of the Act of June 4, 1897 (16 U.S.C. 551), is amended—

(1) by striking ''$500'' and inserting ''$10,000''; and

(2) by inserting after the first sentence the following: ''In the case of such a rule or regulation regarding the use of fire by individuals on such lands, if the violation of the rule or regulation was the result of reckless conduct and occurred in an area subject to a complete ban on open fires, the fine may not be less than $500.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 29, 2003 at 9:30 a.m. on future of NASA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 29, 2003 at 9:30 a.m. to hold a Nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 29, 2003 at 2:30 p.m. to hold a hearing on Challenges for U.S. Policy Toward Colombia: Is Plan Colombia Working?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Is Intellectual Diversity an Endangered Species on America's College Campuses? during the session of the Senate on Wednesday, October 29, 2003 at 2:00 p.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in Executive Session during the session of the Senate on Wednesday, October 29, 2003. The following agenda will be considered:

Agenda

S. , Head Start Improvement and School Readiness Act.

S. , The Poverty Reduction and Prevention Act of 2003.

S. , Pension Stability Act.

S. , Health Care Safety Net Amendments Technical Corrections Act of 2003.

S. 423, Health Care Parity for Legal Transportation and Recreational Activities Act.

S. 1172, Improved Nutrition and Physical Activity Act.

Nominations: Robert Lerner, of Maryland, to be Commissioner of Education Statistics; Leslie Silverman, of Virginia, to be a Member of the Equal Employment Opportunity Commission; Stuart J. Ishimaru, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission; and any other nominees that have been cleared for action.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, October 29, 2003, at 10 a.m., in room 106 of the Dirksen Senate Office Building to conduct a business meeting to consider pending committee business; to be followed immediately by a hearing on S. 1770, the ''Indian Money Account Claims Satisfaction Act of 2003.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, October 29, 2003, at 10 a.m., on ''BCS or Bust: Competitive and Economic Effects of the Bowl Championship Series On and Off the Field,'' in

the Dirksen Senate Office Building, Room 226.

Witness List: LaVell Edwards, Former Head Football Coach, Brigham Young University, Provo, UT; Harvey Perlman, Chancellor, University of Nebraska-Lincoln, Lincoln, NE; Dr. Scott S. Cowen, President, Tulane University, New Orleans, LA; Dr. Myles Brand, President, National Collegiate Athletic Association, Indianapolis, IN; and Keith Tribble, Chief Executive Officer, Orange Bowl Committee, Miami, FL.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, October 29, 2003, at 2 p.m., on ''Nominations,'' in the Dirksen Senate Office Building, Room 226.

Agenda

Panel I: Senators.

Panel II: James B. Comey to be Deputy Attorney General.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. CRAPO. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Wednesday, October 29, 2003, at 2:30 p.m. concerning the International Space Station.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent for privileges of the floor be extended to George Bain, a Forest Service Fellow on my staff, for the duration of the Healthy Forests debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I ask unanimous consent that privilege of the floor be granted to Trish Aspland, congressional assistant from the U.S. Forest Service, for the remainder of the debate relating to H.R. 1904, the Healthy Forest Restoration Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAPO. Mr. President, I ask unanimous consent that Doug MacCleery, an employee of the Department of Agriculture, who has been detailed to the Agriculture Committee, and Fred Zepponi, an intern on the committee's staff, be granted the privilege of the floor during debate on H.R. 1904.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask consent that Darcy Zotler on my staff and Evan Notman on my staff be permitted floor privileges for the duration of the debate on the healthy forests.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I ask unanimous consent that George Matejko and Ron Hooper, both congressional fellows in Senator BURNS' office, be granted the privilege of the floor during the consideration of H.R. 1904.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Wendy Miller, an environmental fellow in my office, be granted floor privileges for the duration of our consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that Ms. Barbara Peichel, a fellow in my office, be granted the privilege of the floor during the debate on the McCain-Lieberman amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Dr. Bill Roma, who is a fellow working for Senator CLINTON, be given the privilege of the floor for the debate on the McCain-Lieberman amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 329 through 331 and Calendar Nos. 333 through 345, en bloc.

The PRESIDING OFFICER. Without objection, the Senate will proceed to those measures en bloc.

Mr. MCCAIN. I ask unanimous consent that the bills be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and any statements relating to the bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAVID BYBEE POST OFFICE BUILDING

The bill (S. 1405) to designate the facility of the United States Postal Service located at 514 17th Street Moline, Illinois, as the ''David Bybee Post Office Building,'' was considered, ordered to a third reading, read the third time and passed, as follows:

S. 1405

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

SECTION 1. DAVID BYBEE POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 514 17th Street in Moline, Illinois, shall be known and designated as the ''David Bybee Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the David Bybee Post Office Building.

JAMES E. DAVIS POST OFFICE BUILDING

The bill (S. 1590) to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, as the ''James E. Davis Post Office Building,'' was considered, ordered to a third reading, read the third time and passed, as follows:

S. 1590

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

SECTION 1. JAMES E. DAVIS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, shall be known and designated as the ''James E. Davis Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the James E. Davis Post Office Building.

JOHN G. DOW POST OFFICE BUILDING

The bill (S. 1659) to designate the facility of the United States Postal Service, located at 57 Old Tappan Road in Tappan, New York, as the ''John G Dow Post Office Building,'' was considered, ordered to a third reading, read the third time and passed, as follows:

S. 1659

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

SECTION 1. JOHN G. DOW POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, shall be known and designated as the ''John G. Dow Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the John G. Dow Post Office Building.

SENATOR JAMES B. PEARSON POST OFFICE

The bill (S. 1718) to designate the facility of the United States Postal Service, located at 3710 West 73rd Terrace in Prairie Village, Kansas, as the ''Senator James B. Pearson Post Office,'' was considered, ordered to a third reading, read the third time and passed, as follows:

S. 1718

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

SECTION 1. SENATOR JAMES B. PEARSON POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3710

West 73rd Terrace in Prairie Village, Kansas, shall be known and designated as the ''Senator James B. Pearson Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Senator James B. Pearson Post Office.

WALT DISNEY POST OFFICE BUILDING

The bill (H.R. 1610) to redesignate the facility of the United States Postal Service located at 230 East Ritchie Avenue in Marceline, Missouri, as the ''Walt Disney Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

ARTHUR 'PAPPY' KENNEDY POST OFFICE

The bill (H.R. 1882) to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the ''Arthur 'Pappy' Kennedy Post Office,'' was considered, ordered to a third reading, read the third time and passed.

EDDIE MAE STEWARD POST OFFICE

The bill (H.R. 1883) to designate the facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, as the ''Eddie Mae Steward Post Office,'' was considered, ordered to a third reading, read the third time and passed.

JUDGE EDWARD RODGERS POST OFFICE BUILDING

The bill (H.R. 2075) to designate the facility of the United States Postal Service located at 1905 West Blue Heron Boulevard in West Palm Beach, Florida, as the ''Judge Edward Rodgers Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

BRUCE WOODBURY POST OFFICE BUILDING

The bill (H.R. 2254) to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the ''Bruce Woodbury Post Office building,'' was considered, ordered to a third reading, read the third time and passed.

STEPHEN HORN POST OFFICE BUILDING

The bill (H.R. 2309) to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Long Beach, California, as the ''Stephen Horn Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

ROBERT A. BORSKI POST OFFICE BUILDING

The bill (H.R. 2328) to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the ''Robert A. Borski Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

FRANCISCO A. MARTINEZ FLORES POST OFFICE

The bill (H.R. 2396) to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Duarte, California, as the ''Francisco A. Martinez Flores Post Office,'' was considered, ordered to a third reading, read the third time and passed.

BRIAN C. HICKEY POST OFFICE BUILDING

The bill (H.R. 2452) to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the ''Brian C. Hickey Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

J.C. LEWIS, JR. POST OFFICE BUILDING

The bill (H.R. 2533) to designate the facility of the United States Postal Service located at 10701 Abercorn Street in Savannah, Georgia, as the ''J.C. Lewis, Jr. Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

BARBARA B. KENNELLY POST OFFICE BUILDING

The bill (H.R. 2746) to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the ''Barbara B. Kennelly Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

BOB HOPE POST OFFICE BUILDING

The bill (H.R. 3011) to designate the facility of the United States Postal Service located at 135 East Olive Avenue in Burbank, California, as the ''Bob Hope Post Office Building,'' was considered, ordered to a third reading, read the third time and passed.

COMMENDING THE FLORIDA MARLINS FOR WINNING THE 2003 WORLD SERIES

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 254 submitted earlier today by Senators NELSON and GRAHAM of Florida.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 254) commending the Florida Marlins baseball team for winning the 2003 World Series.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAHAM of Florida. Mr. President, I rise today to recognize the Florida Marlins for their outstanding victory in the 2003 World Series. The Marlins, under the leadership of their Managing General Partner Jeffrey Loria, General Manager Larry Beinfest and Manager Jack McKeon, defeated the 26-time World Champion New York Yankees to garner their second World Championship in only their 10th year of existence.

With their combination of youthful energy and veteran experience, the Marlins were able to defeat the defending National League Champion San Francisco Giants in four games in the divisional series before coming back from a three games-to-one deficit to defeat the Chicago Cubs in seven games to win the National League Pennant. Led by the enthusiastic leadership of veteran catcher Ivan Rodriguez and the pitching of budding superstar Josh Beckett, the Marlins have a bright future ahead of them.

Floridians from Key West to Pensacola were riveted by the Marlins comeback style and gritty determination as they watched their home team defeat three of baseball's most storied franchises on their way to the championship. As a silence fell over the boroughs of New York City, a party of historic proportions broke out in my home state as our team emerged from the dugout to celebrate its second championship.

The Florida Marlins continue to be a source of pride for residents of the Sunshine State and this year's team, so often faced with adversity, stood as a fine representative of all that our great state has to offer.

Mr. NELSON of Florida. Mr. President, I rise today to urge passage of a resolution sponsored by Senator GRAHAM and myself commending the Florida Marlins for winning the 2003 World Series.

In their 10th anniversary season the Marlins have once again reached the pinnacle of baseball. They provided us with a magical season many in Florida and elsewhere won't soon forget. They started the season with little fanfare and low expectations, and they struggled at first with a losing record. And just when things seemed as if they couldn't get any worse, they lost their manager. For many the Marlins' early misfortunes signaled another losing season.

But on May 23, the team began a magical run that culminated in a World Series title over the storied New York Yankees. During this remarkable stretch, they compiled the best record in baseball, earned a wild-card playoff

spot, upset the heavily favored San Francisco Giants in the Division series, shocked the Chicago Cubs by rebounding from a three-games-to-one deficit to win the National League Championship and became the first opposing team to capture a World Series title in Yankee Stadium in 22 years.

During their season, and especially the playoffs, the Marlins confidently believed in their abilities and their play made believers out of many all along the way. If nothing else, their season illustrates for everyone a lesson we all should heed—never give up. We offer congratulations to all members of the Florida Marlins organization and to their fans in South Florida.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 254) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 254

Whereas on October 25, 2003, the Florida Marlins defeated the New York Yankees, 2 to 0, in Game 6 of the World Series, to capture their second World Series title in the 11 seasons of the franchise;

Whereas the Florida Marlins became the first visiting team to celebrate a World Series championship in Yankee Stadium since the Los Angeles Dodgers in 1981;

Whereas under the leadership of manager Jack McKeon, general manager Larry Beinfest, and team owner Jeffrey Loria, the Marlins compiled the best record in baseball since May 23, 2003, becoming only the ninth team in Major League Baseball history to rebound from at least 10 games under .500 to reach the playoffs;

Whereas each player, manager, coach, trainer, and administrator of the Florida Marlins contributed to a magical turnaround that resulted in the Florida Marlins reaching the pinnacle of the sport, a World Series Championship;

Whereas the manager of the Florida Marlins, Jack McKeon, became the oldest manager in Major League Baseball history to win the World Series, and led Florida to the title after joining the team in May of 2003;

Whereas Florida Marlins pitcher Josh Beckett was named World Series Most Valuable Player, after pitching a complete game, 5 hit shutout, on 3 days rest in Yankee Stadium during Game 6 of the World Series;

Whereas young stars like Miguel Cabrera, Juan Pierre, and Luis Castillo combined with established veterans like Ivan Rodriguez and Jeff Conine to produce an exciting, never-say-die team that won over fans around the country during an unexpected march to the World Series;

Whereas the Florida Marlins upset the San Francisco Giants in 4 games to win the Division Series, then stunned the Chicago Cubs by coming back from a 3 games to 1 deficit to win the National League Championship Series in 7 games; and

Whereas fans of the Florida Marlins and the South Florida community demonstrated commendable team support and pride: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Florida Marlins for winning the 2003 World Series;

(2) recognizes the achievements of the players, coaches, and support staff who were instrumental in securing a second World Series title for the Florida Marlins;

(3) commends the support and pride of the fans of the Florida Marlins; and

(4) directs the Secretary of the Senate to transmit for appropriate display an enrolled copy of this resolution to—

(A) the owner of the Florida Marlins, Jeffrey Loria;

(B) the general manager of the Florida Marlins, Larry Beinfest;

(C) the manager of the Florida Marlins, Jack McKeon; and

(D) each player and coach of the 2003 World Series Champion Florida Marlins baseball team.

ORDERS FOR THURSDAY, OCTOBER 30, 2003

Mr. MCCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. Thursday, October 30. I further ask unanimous consent 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 proceed to executive session to consider Executive Calendar No. 405, the nomination of Charles Pickering to be a United States Circuit Judge for the Fifth Circuit; provided further that there then be 60 minutes equally divided between the chairman and ranking member with the final 10 minutes divided with the first 5 minutes under the control of the Democratic leader or his designee, and the final 5 minutes under the control of the majority leader or his designee; further, that following that debate the Senate proceed to the cloture vote on the nomination.

I further ask unanimous consent that if cloture is not invoked, the Senate return to legislative session and resume consideration of S. 139, the climate change bill; provided further that there be 2 hours of debate remaining under the provisions of the previous order to be equally divided between Senator LIEBERMAN and Senator INHOFE or their designees.

Finally, I ask unanimous consent that following the disposition of S. 139, the Senate resume consideration of H.R. 1904, the Healthy Forests legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MCCAIN. Mr. President, for the information of all Senators, tomorrow there will be 1 hour of debate on the nomination of Charles Pickering to be a United States Circuit Judge for the Fifth Circuit prior to a cloture vote on that nomination. If cloture is not invoked, the Senate will resume consideration of S. 139, the climate change bill. Under the previous consent, there will 2 hours of debate remaining prior to a vote on that measure. Following that vote, the Senate will resume debate on H.R. 1904, the Healthy Forests legislation. It is the leader's intention to complete action on this measure during tomorrow's session. Senators should expect amendments to be offered and debated throughout the afternoon. Therefore, votes should be anticipated throughout the afternoon as well.

Following completion of the Healthy Forests legislation, the Senate will resume debate on H.R. 2800, the Foreign Operations appropriations bill. We have locked in a final list of amendments during today's session, and it is anticipated that we can complete action on the bill in short order.

The Senate may also consider other conference reports that became available.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MCCAIN. Mr. President, 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 Thursday, October 30, 2003, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 29, 2003:

DEPARTMENT OF THE TREASURY

ARNOLD I. HAVENS, OF VIRGINIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY, VICE DAVID AUFHAUSER.

DEPARTMENT OF EDUCATION

SUSAN K. SCLAFANI, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION, VICE CAROL D'AMICO, RESIGNED.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 30, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 3

10:30 a.m.
Governmental Affairs
Financial Management, the Budget, and International Security Subcommittee
To hold hearings to examine the extent and impact of alleged trading abuses in the mutual fund industry and regulatory reforms necessary to mitigate such practices in the future.
SD–342

NOVEMBER 4

10 a.m.
Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine report from the President's New Freedom Commission on mental health relating to recommendations to improve mental health care in America.
SD–430

Judiciary
Terrorism, Technology and Homeland Security Subcommittee
To hold hearings to examine database security.
SD–226

2:30 p.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine the current situation in North Korea.
SD–419

Judiciary
Immigration, Border Security and Citizenship Subcommittee
To hold hearings to examine state and local authority to enforce immigration law relating to terrorism.
SD–226

Banking, Housing, and Urban Affairs
International Trade and Finance Subcommittee
To resume hearings to examine financial reconstruction in Iraq.
SD–538

NOVEMBER 5

9:30 a.m.
Joint Economic Committee
To hold hearings relating to rethinking the tax code.
SD–628

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the state of the banking industry.
SD–538

2 p.m.
Governmental Affairs
To hold hearings to examine the report of the Presidential Commission on the U.S. Postal Service.
SD–342

NOVEMBER 6

2 p.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine Department of Defense's improper use of first and business class airline travel.
SD–342

NOVEMBER 7

9:30 a.m.
Joint Economic Committee
To hold joint hearings to examine the current employment situation.
SD–628

NOVEMBER 12

9:30 a.m.
Environment and Public Works
Business meeting to consider S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs.
SD–406

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Daily Digest

HIGHLIGHTS

House committees ordered reported 32 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S13423–S13533

Measures Introduced: Four bills and two resolutions were introduced, as follows: S. 1794–1797 and S. Res. 253–254. **Page S13516**

Measures Reported:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2004". (S. Rept. No. 108–175)

H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, with an amendment in the nature of a substitute. (S. Rept. No. 108–176)

S. 1066, to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System, with an amendment in the nature of a substitute. (S. Rept. No. 108–177)

S. 1643, to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barriers Resources Act and the National Flood Act of 1968, with amendments. (S. Rept. No. 108–178) **Page S13515**

Measures Passed:

David Bybee Post Office Building: Senate passed S. 1405, to designate the facility of the United States Postal Service located at 514 17th Street Moline, Illinois, as the "David Bybee Post Office Building". **Page S13531**

James E. Davis Post Office Building: Senate passed S. 1590, to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown Heights, Brooklyn, New York, as the "James E. Davis Post Office Building". **Page S13531**

John G Dow Post Office Building: Senate passed S. 1659, to designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the "John G Dow Post Office Building". **Page S13531**

Senator James B. Pearson Post Office: Senate passed S. 1718, to designate the facility of the United States Postal Service located at 3710 West 73rd Terrace in Prairie Village, Kansas, as the "Senator James B. Pearson Post Office". **Pages S13531–32**

Walt Disney Post Office Building: Senate passed H.R. 1610, to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building", clearing the measure for the President. **Page S13532**

Arthur 'Pappy' Kennedy Post Office: Senate passed H.R. 1882, to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the "Arthur 'Pappy' Kennedy Post Office", clearing the measure for the President. **Page S13532**

Eddie Mae Steward Post Office: Senate passed H.R. 1883, to designate the facility of the United States Postal Service located at 1601–1 Main Street in Jacksonville, Florida, as the "Eddie Mae Steward Post Office", clearing the measure for the President. **Page S13532**

Judge Edward Rodgers Post Office Building: Senate passed H.R. 2075, to designate the facility of the United States Postal Service located at 1905 West Blue Heron Boulevard in West Palm Beach, Florida, as the "Judge Edward Rodgers Post Office Building", clearing the measure for the President. **Page S13532**

Bruce Woodbury Post Office Building: Senate passed H.R. 2254, to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building", clearing the measure for the President. **Page S13532**

Stephen Horn Post Office Building: Senate passed H.R. 2309, To designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Long Beach, California, as the "Stephen Horn Post Office Building", clearing the measure for the President. **Page S13532**

Robert A. Borski Post Office Building: Senate passed H.R. 2328, to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the "Robert A. Borski Post Office Building", clearing the measure for the President. **Page S13532**

Francisco A. Martinez Flores Post Office: Senate passed H.R. 2396, to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Duarte, California, as the "Francisco A. Martinez Flores Post Office", clearing the measure for the President. **Page S13532**

Brian C. Hickey Post Office Building: Senate passed H.R. 2452, to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the "Brian C. Hickey Post Office Building", clearing the measure for the President. **Page S13532**

J.C. Lewis, Jr. Post Office Building: Senate passed H.R. 2533, to designate the facility of the United States Postal Service located at 10701 Abercorn Street in Savannah, Georgia, as the "J.C. Lewis, Jr. Post Office Building", clearing the measure for the President. **Page S13532**

Barbara B. Kennelly Post Office Building: Senate passed H.R. 2746, to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the "Barbara B. Kennelly Post Office Building", clearing the measure for the President. **Page S13532**

Bob Hope Post Office Building: Senate passed H.R. 3011, to designate the facility of the United States Postal Service located at 135 East Olive Avenue in Burbank, California, as the "Bob Hope Post Office Building", clearing the measure for the President. **Page S13532**

Commending Florida Marlins: Senate agreed to S. Res. 254, commending the Florida Marlins baseball team for winning the 2003 World Series. **Pages S13532–33**

Foreign Operation Appropriations Act: Senate continued consideration of H.R. 2800, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, taking action on the following amendments proposed thereto: **Pages S13431–35**

Pending:

DeWine Amendment No. 1966, to increase assistance to combat HIV/AIDS. **Page S13431**

McConnell Amendment No. 1970, to express the sense of the Senate on Burma. **Page S13431**

Feinstein Amendment No. 1977, to clarify the definition of HIV/AIDS prevention for purposes of providing funds for therapeutic medical care. **Page S13431**

During consideration of this measure today, Senate also took the follow action:

By 43 yeas to 54 nays (Vote No. 415), two-thirds of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to suspend Rule XVI, with respect to Dorgan/Schumer Amendment No. 2800, to urge the President to release information regarding sources of foreign support for the 9–11 hijackers. Subsequently, the point of order that the amendment was not germane under Rule XVI, was sustained, and the amendment thus fell. **Page S13435**

A unanimous-consent agreement was reached providing for further consideration of the bill with certain first-degree amendments in order, subject to relevant second-degree amendments; that following the disposition of the amendments, the bill be read a third time, and the Senate vote on final passage of the bill; that following passage of the bill, Senate insist on its amendment, request a conference with the House thereon, and the Chair be authorized to appoint Conferees on the part of the Senate, which will consist of the subcommittee membership and Senators Stevens and Byrd. **Page S13484**

Healthy Forests Restoration Act: Senate began consideration of H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, taking action on the following amendments proposed thereto: **Pages S13435–84**

Adopted:

By 97 yeas to 1 nay (Vote No. 416), Cochran Amendment No. 1828, of a perfecting nature. **Pages S13449–76, S13480**

By 94 yeas to 3 nays (Vote No. 417), Boxer Amendment No. 2025, to enact the Firefighters Medical Monitoring Act. **Pages S13481–82**

By 78 yeas to 17 nays (Vote No. 418), Boxer Amendment No. 2026, to enact the Disaster Air Quality Monitoring Act. **Pages S13482–83**

A unanimous-consent agreement was reached providing for further consideration of the bill following disposition of S. 139, Climate Stewardship Act, on Thursday, October 30, 2003. **Pages S13483–84**

Climate Stewardship Act: Pursuant to the order of July 31, 2003, Committee on Environment and Public Works was discharged from further consideration of S. 139, to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradable allowances that could be used interchangeably with passenger vehicle fuel economy standard credits, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances, and the Senate then began consideration of the bill, taking action on the following amendments proposed thereto: **Pages S13484–S13509**

Pending:

Lieberman/McCain Amendment No. 2028, in the nature of a substitute. **Pages S13485–S13509**

A unanimous-consent agreement was reached providing that, if cloture is not invoked on the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit, Senate will continue consideration of the bill on Thursday, October 30, 2003, with two hours of debate remaining. **Page S13533**

Nomination—Agreement: A unanimous-consent agreement was reached providing for further consideration of the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit, at 9 a.m., on Thursday, October 30, 2003; that there be 60 minutes of debate; following which, Senate will vote on the motion to close further debate on the nomination, to occur at approximately 10 a.m. **Page S13533**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, a report relative to the national emergency declared in Executive Order 12938 with respect to weapons of mass destruction; to the Committee on Banking, Housing, and Urban Affairs. (PM–53) **Pages S13512–13**

Transmitting, pursuant to law, a report relative to the national emergency with respect to Sudan relative to the threat to national security and foreign policy of the United States; to the Committee on Banking, Housing, and Urban Affairs. (PM–54) **Page S13513**

Nominations Received: Senate received the following nominations:

Arnold I. Havens, of Virginia, to be General Counsel for the Department of the Treasury.

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education. **Page S13533**

Messages From the House: **Page S13513**

Measures Referred: **Page S13513**

Measures Placed on Calendar: **Page S13514**

Executive Communications: **Pages S13514–15**

Executive Reports of Committees: **Page S13515**

Additional Cosponsors: **Pages S13516–17**

Statements on Introduced Bills/Resolutions: **Pages S13517–21**

Additional Statements: **Pages S13511–12**

Amendments Submitted: **Pages S13521–30**

Authority for Committees to Meet: **Pages S13530–31**

Privilege of the Floor: **Page S13531**

Record Votes: Four record votes were taken today. (Total—418) **Pages S13435, S13480, S13482, S13483**

Adjournment: Senate met at 9:30 a.m., and adjourned at 9:13 p.m., until 9 a.m., on Thursday, October 30, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S13533.)

Committee Meetings

(Committees not listed did not meet)

NASA

Committee on Commerce, Science, and Transportation: Committee concluded a hearing on the future of the National Aeronautics and Space Administration, focusing on NASA's Strategic Plan for future space research and exploration, after receiving testimony from Sean O'Keefe, Administrator, National Aeronautics and Space Administration; Admiral Harold Gehman, USN (Ret.), Chairman, Columbia Accident Investigation Board; Wesley T. Huntress, Jr., Geophysical Laboratory, Carnegie Institution of Washington, Washington, D.C.; Robert Zurbrin, Mars Society, Lakewood, Colorado; David Woods, Ohio State University Institute for Ergonomics, Columbus; and Rick N. Tumlinson, Space Frontier Foundation, Nyack, New York.

INTERNATIONAL SPACE STATION

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology and Space concluded a hearing on the status of the International Space Station, focusing on the impact the Columbia

accident has had on International Space Station operations, after receiving testimony from William F. Readdy, Associate Administrator for Space Flight, and Mary Kicza, Associate Administrator for Biological and Physical Research, both of National Aeronautics and Space Administration; Allen Li, Director, Acquisition and Sourcing Management, General Accounting Office; Robert L. Park, American Physical Society, Washington, D.C.; James A. Pawelczyk, Pennsylvania State University, University Park; and Arthur I. Zygielbaum, University of Nebraska National Center for Information Technology and Education, Lincoln.

IRAN: SECURITY THREATS

Committee on Foreign Relations: On Tuesday, October 28, 2003, Committee met in closed session to receive a briefing to examine security threats and U.S. policy in relation to Iran from Sylvia Copeland, Director, and Nathan Tuchrello, Deputy Issue Manager for Iran and Saudi Arabia, both of the Office of Near East and South Asia Analysis, Central Intelligence Agency.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Margaret DeBardeleben Tutwiler, of Alabama, to be Under Secretary of State for Public Diplomacy, Zalmay Khalilzad, of Maryland, to be Ambassador to Afghanistan, and Louise V. Oliver, of the District of Columbia, for the rank of Ambassador during her tenure of service as the United States Permanent Representative to the United Nations Educational, Scientific, Cultural Organization, and to be U.S. Representative to the 32nd and General Conference of UNESCO, after each nominee testified and answered questions in their own behalf.

COLOMBIA

Committee on Foreign Relations: Committee concluded a hearing to examine challenges for U.S. policy toward Colombia, focusing on the Counter Narcotics Brigade (CN Brigade), engineer and infrastructure support, professionalism and human rights, and trade issues, after receiving testimony from Robert B. Charles, Assistant Secretary of State of the Bureau for International Narcotics and Law Enforcement Affairs; Adolfo A. Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, U.S. Agency for International Development; General James T. Hill, USA, Commander, U.S. Southern Command; and Mark L. Schneider, International Crisis Group, Julia E. Sweig, Council on Foreign Relations, and Phillip McLean, Center for Strategic and International Studies, all of Washington, D.C.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the following business items:

S. 423, to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities, with an amendment in the nature of a substitute;

S. 1172, to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, with an amendment in the nature of a substitute;

S. 1775, to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002, with an amendment;

S. 1786, to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act, with an amendment;

An original bill, to reauthorize the Head Start Act;

An original bill, to change the 30-year treasury bond rate to a composite corporate rate, and to establish a commission on defined benefit plans; and

The nominations of Robert Lerner, of Maryland, to be Commissioner of Education Statistics, Department of Education, and Leslie Silverman and Naomi Churchill Earp, both of Virginia, and Stuart Ishimaru, of the District of Columbia, each to be a Member of the Equal Employment Opportunity Commission.

INTELLECTUAL DIVERSITY ON COLLEGE CAMPUSES

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine intellectual diversity on America's college campuses, focusing on the problem of freedom of expression, politicized instruction, and core curricula, after receiving testimony from Anne Neal, American Council of Trustees and Alumni, Washington, D.C.; Robert David Johnson, Brooklyn College and the City University of New York Graduate Center, Brooklyn, New York; Greg Lukianoff, Foundation for Individual Rights in Education, Philadelphia, Pennsylvania; and Anthony Dick, Charlottesville, Virginia.

BUSINESS MEETING

Committee on Indian Affairs: Committee ordered favorably reported the following bills:

S. 1601, to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, with an amendment in the nature of a substitute;

S. 420, to provide for the acknowledgement of the Lumbee Tribe of North Carolina, with an amendment in the nature of a substitute; and

S. 1423, to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe, with an amendment.

INDIAN MONEY ACCOUNT CLAIMS SATISFACTION ACT

Committee on Indian Affairs: Committee concluded a hearing on S. 1770, to establish a voluntary alternative claims resolution process to reach a settlement of pending class action litigation, after receiving testimony from James Cason, Associate Deputy Secretary of the Interior; John E. Echohawk, Native American Rights Fund, Boulder, Colorado; Tex G. Hall, National Congress of American Indians, Washington, D.C.; D. Fred Matt, Confederated Salish and Kootenai Tribes, Pablo, Montana; and Jim Gray, Osage Tribal Council, Pawhuska, Oklahoma.

BOWL CHAMPIONSHIP SERIES

Committee on the Judiciary: Committee concluded a hearing to examine competitive and economic effects of the Bowl Championship series on and off the field, focusing on the impact on the academic missions of universities, student-athletes, bowl games and fans, financial contributions to higher education, increased fan attendance, media exposure, the economic impact on the host community, and charitable responsibility, after receiving testimony from Senator Bennett; Harvey S. Perlman, University of Nebraska-Lincoln, Lincoln, Nebraska; Myles Brand, National Collegiate Athletic Association, Indianapolis, Indiana; Scott S. Cowen, Tulane University, New Orleans, Louisiana; Keith R. Tribble, Orange Bowl Committee, and the Football Bowl Association, Miami, Florida; LaVell Edwards, Provo, Utah, formerly with Brigham Young University.

NOMINATION

Committee on the Judiciary: Committee concluded a hearing to examine the nomination of James B. Comey, of New York, to be Deputy Attorney General, Department of Justice, after the nominee, who was introduced by Senator Schumer, testified and answered questions in his own behalf.

House of Representatives

Chamber Action

Measures Introduced: 21 public bills, H.R. 3385–3405; and 3 resolutions, H. Con. Res. 314–315 and H. Res. 423, were introduced.

Pages H10129–30

Additional Cosponsors: **Pages H10130–31**

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 2115, to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration (H. Rept. 108–334);

H. Res. 421, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–335); and

H. Res. 422, waiving points of order against the conference report to accompany the bill (H.R. 2115) to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration (H. Rept. 108–336). **Page H10129**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Shaw to act as Speaker Pro Tempore for today. **Page H9985**

Chaplain: The prayer was offered today by Rev. Bryce Anderson, Pastor, Church of the Living Word in Vincennes, Indiana. **Page H9985**

Departments of Transportation and Treasury Appropriations Act for FY 2004—Motion to go to conference: The House disagreed to the Senate amendment to H.R. 2989, making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2004, and agreed to a conference.

Pages H9988–89

The House agreed to the Olver motion to instruct conferees on the bill by a voice vote. **Page H9989**

Appointed as conferees: Representatives Istook, Wolf, Lewis (CA), Rogers (KY), Tiahrt, Northup, Aderholt, Sweeney, Culberson, Young (FL), Hoyer, Olver, Pastor, Kilpatrick, Clyburn, Rothman, and Obey. **Page H9989**

Continuing Appropriations for FY 2004: The House agreed to H. Res. 417, the rule providing for consideration of H.J. Res. 75, making further continuing appropriations for the fiscal year 2004, by a yea-and-nay vote of 311 yeas to 112 nays, Roll No. 574. **Pages H9989–91, H9995–96**

Interior Department Appropriations Act for FY 2004—Conference Report: The House agreed to H. Res. 418, the rule providing for consideration of the conference report on H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, by a yea-and-nay vote of 289 yeas to 136 nays, Roll No. 575. **Pages H9991–95, H9996**

Recess: The House recessed at 11:22 a.m. and reconvened at 12:05 p.m. **Page H9995**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Veterans Health Care Facilities Capital Improvement Act: H.R. 1720, amended, to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, establishing, and updating patient care facilities at Department of Veterans Affairs medical centers, by a ⅔ yea-and-nay vote of 417 yeas with none voting "nay", Roll No. 576; **Pages H9996–H10008, H10079–80**

Agreed to amend the title so as to read "a bill to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, establishing, and updating patient care facilities at Department of Veterans Affairs medical centers, and for other purposes". **Page H10080**

National Cemetery Expansion Act of 2003: Senate amendments to H.R. 1516, to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in southeastern Pennsylvania, by a ⅔ yea-and-nay vote of 412 yeas with none voting "nay", Roll No. 577; **Pages H10054–58, H10080–81**

Fallen Patriots Tax Relief Act: H.R. 3365, to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income, by a ⅔ yea-and-nay vote of 413 yeas with none voting "nay" Roll No. 578; **Pages H10058–62, H10081**

Encouraging China to fulfill its commitments to international trade rules: H. Res. 414, to encourage the People's Republic of China to fulfill its commitments under international trade agreements, support the United States manufacturing sector, and establish monetary and financial market reforms, by a ⅔ yea-and-nay vote of 411 yeas to 1 nay, Roll No. 579; and **Pages H10062–71, H10081–82**

Congratulating the Florida Marlins for winning the 2003 World Series: H. Res. 415, congratulating the Florida Marlins for winning the 2003 World Series. **Pages H10071–74**

Suspension Postponed: The House completed debate on the following motions to suspend the rules. Further proceedings were postponed until a later date.

Sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States: H. Con. Res. 302, expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003. **Pages H10074–78**

Coast Guard and Maritime Transportation Act of 2003: The House agreed to H. Res. 416, the rule providing for consideration of H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, by a voice vote. **Pages H10078–79**

Recess: The House recessed at 4:07 p.m. and reconvened at 5:00 p.m. **Page H10079**

Labor/HHS Appropriations—Motion to Instruct Conferees: The House agreed to the Obey motion to instruct conferees on H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, by a voice vote. **Pages H10083–90**

Representative DeLauro announced her intention to offer a motion to instruct conferees on the bill. **Page H10083**

Tax Relief, Simplification, and Equity Act of 2003: Representative Becerra announced his intention to offer a motion to instruct conferees on H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit. **Page H10082**

Energy Policy Act of 2003: The House debated the Eddie Bernice Johnson of Texas motion to instruct conferees on H.R. 6, to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people. Further proceedings on the motion were postponed until a later date. **Pages H10090–H10106**

Representative Filner announced his intention to offer a motion to instruct conferees on the bill. **Page H10083**

Medicare Prescription Drug and Modernization Act of 2003: The House debated the Davis of Florida motion to instruct conferees on H.R. 1, to

amend title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the Medicare program and to strengthen and improve the Medicare program. Further proceedings on the motion were postponed until a later date.

Pages H10106–12

Representative Capps announced her intention to offer a motion to instruct conferees on the bill.

Page H10083

Senate Message: Message received from the Senate today appears on page H9985.

Senate Referral: S. 247 was ordered held at the desk. Page H9985

Presidential Messages: Read messages from the President wherein he transmitted a report concerning the National Emergency with Respect to the Proliferation of Weapons of Mass Destruction referred to the Committee on International Relations and ordered printed (H. Doc. 108–138); and a report concerning the National Emergency with Respect to Sudan—referred to the Committee on International Relations and ordered printed. (H. Doc. 108–139).

Page H10112

Amendments: Amendments ordered printed pursuant to the rule appear on page H10131.

Adjournment: The House met at 10 a.m. and adjourned at 11:13 p.m.

Committee Meetings

MISCELLANEOUS MEASURES

Committee on Agriculture: Ordered reported the following measures: H.J. Res. 74, recognizing the Agricultural Research Service of the Department of Agriculture on the occasion of its 50th anniversary for the important service it provides for the Nation; H.R. 1367, amended, National Veterinary Medical Services Act; H.R. 2304, amended, to resolve boundary conflicts in the vicinity of the Mark Twain National Forest in Barry and Stone Counties, Missouri, that resulted from private landowner reliance on a subsequent Federal survey; H.R. 3157, amended, to provide for the designation of a Department of Agriculture disaster liaison to assist State and local employees of the Department in coordination with other disaster agencies in response to a federally declared disaster area as a result of a disaster; and H.R. 3217, to provide for the conveyance of several small parcels of National Forest System land in the Apalachicola National Forest, Florida, to resolve boundary discrepancies involving the Mt. Trial Primitive Baptist Church of Wakulla County, Florida.

IRAQ RECONSTRUCTION AND STABILITY OPERATIONS

Committee on Armed Services: Held a hearing on "Irag Reconstruction and Stability Operations: The Way Forward." Testimony was heard from public witnesses.

PENSION UNDERFUNDING CRISIS

Committee on Education and the Workforce: Held a hearing on "The Pension Underfunding Crisis: How Effective Have Funding Reforms Been?" Testimony was heard from Barbara Bovbjerg, Director, Education, Workforce, and Income Security Issues, GAO; and public witnesses.

WORLD BANK LENDING TO IRAN

Committee on Financial Services: Subcommittee on Domestic and International Monetary Policy, Trade, and Technology held a hearing on World Bank lending to Iran. Testimony was heard from William Schuerch, Deputy Assistant Secretary, International Development, Department of the Treasury; and public witnesses.

DEPARTMENT OF HOMELAND SECURITY—A NEW HUMAN RESOURCES MANAGEMENT SYSTEM

Committee on Government Reform: Subcommittee on Civil Service and Agency Organization held an oversight hearing entitled "Decision Time: A New Human Resources Management System at the Department of Homeland Security." Testimony was heard from Ronald L. James, Chief Human Capital Officer, Department of Homeland Security; Steven R. Cohen, Senior Adviser, Homeland Security, OPM; and public witnesses.

OVERSIGHT

Committee on Government Reform: Subcommittee on Government Efficiency and Financial Management held an oversight hearing entitled "Agency Compliance with FFMIA—Private Sector Views." Testimony was heard from Sally Thompson, Director, Financial Management and Assurance, GAO; and public witnesses.

INTERNATIONAL SLAVERY AND HUMAN TRAFFICKING—ONGOING TRAGEDY

Committee on Government Reform: Subcommittee on Human Rights and Wellness held a hearing entitled "The Ongoing Tragedy of International Slavery and Human Trafficking: An Overview." Testimony was heard from the following officials of the Department of State: John Miller, Director, Office to Monitor and Combat Trafficking in Persons; and Kent Hill, Assistant Administrator, AID; and public witnesses.

ASIA AND THE PACIFIC—CHALLENGE OF TERRORISM

Committee on International Relations: Subcommittee on Asia and the Pacific and the Subcommittee on International Terrorism, Nonproliferation and Human Rights held a joint hearing on the Challenge of Terrorism in Asia and the Pacific. Testimony was heard from the following officials of the Department of State: J. Cofer Black, Ambassador-at-Large, Coordinator for Counterterrorism; Christina B. Rocca, Assistant Secretary, Bureau of South Asian Affairs; and Matthew P. Daley, Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs; Timothy D. Hoyt, Associate Professor, Strategy and Policy, Department of Defense; and public witnesses.

U.S. AND EUROPE—IMPORTANCE OF STRONGER RELATIONS

Committee on International Relations: Subcommittee on Europe approved for full Committee action H. Res. 390, recognizing the continued importance of the transatlantic relationship and promoting stronger relations with Europe by reaffirming the need for a continued and meaningful dialogue between the United States and Europe.

CENTRAL ASIA: TERRORISM, RELIGIOUS EXTREMISM, AND REGIONAL STABILITY

Committee on International Relations: Subcommittee on the Middle East and Central Asia held a hearing on "Central Asia: Terrorism, Religious Extremism, and Regional Stability." Testimony was heard from A. Elizabeth Jones, Assistant Secretary, Bureau of European and Eurasian Affairs, Department of State; Stephen Blank, Professor, Strategic Studies Institute, U.S. Army War College, Department of Defense; and public witnesses.

MISCELLANEOUS MEASURES; AMERICAN SAMOA—PROTECT VOTING RIGHTS OF ARMED SERVICES

Committee on Resources: Ordered reported the following measures: H. Con. Res. 237, honoring the late Rick Lupe, lead forestry technician for the Bureau of Indian Affairs Fort Apache Agency, for his dedication and service to the United States and for his essential service in fighting wildfires and protecting the environment and communities of Arizona; H.R. 154, amended, to exclude certain properties from the John H. Chafee Coastal Barrier Resources; H.R. 265, amended, Mount Rainier National Park Boundary Adjustment Act of 2003; H.R. 280, amended, National Aviation Heritage Act; H.R. 421, Environmental Policy and Conflict Resolution Advancement Act of 2003; H.R. 506, amended, Galisteo Basin Archaeological Sites Protection Act; H.R. 958, amended, Hydrographic Services Amendments of 2003; H.R. 1594, amended, St. Croix National Heritage Area Study Act; H.R. 1618, amended, Arabia Mountain National Heritage Area Act; H.R. 1629, Upper Missouri River Breaks Boundary Clarification Act; H.R. 1648, Carpinteria and Montecito Water Distribution Systems Conveyance Act of 2003; H.R. 1732, Williamson County Water Recycling Act of 2003; H.R. 1862, amended, Oil Region National Heritage Area Act; H.R. 1964, amended, Highlands Stewardship Act; H.R. 2408, amended, National Wildlife Refuge Volunteer Act of 2003; H.R. 2425, amended, Quinault Permanent Fisheries Fund Act; H.R. 2489, amended, Cowlitz Indian Tribe Distribution of Judgment Funds Act; H.R. 2584, to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship; H.R. 2707, amended, Salt Cedar and Russian Olive Control Demonstration Act; H.R. 2715, to provide for necessary improvements to facilities at Yosemite National Park; H.R. 2907, amended, Northern Arizona National Forest Land Exchange Act of 2003; H.R. 3209, to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project; S. 523, Native American Technical Corrections Act of 2003; S. 625, Tualatin River Basin Water Supply Enhancement Act of 2003; S. 677, Black Canyon of the Gunnison Boundary Revision Act of 2003; S. 924, to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior; and S. 1233, National Great Black Americans Commemoration Act of 2003.

The Committee also held a hearing on H.R. 2010, to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives. Testimony was heard from Aitofele Sunia, Lt. Governor, Pago Pago, American Samoa.

CONFERENCE REPORT—FLIGHT 100—CENTURY OF AVIATION REAUTHORIZATION ACT

Committee on Rules: Granted, by a vote of 9 to 3, a rule waiving all points of order against the conference report to accompany H.R. 2115, Flight 100—Century of Aviation Reauthorization Act, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Representatives Mica, Oberstar and DeFazio.

SAME-DAY CONSIDERATION OF RESOLUTION REPORTED BY THE RULES COMMITTEE RELATING TO EMERGENCY SUPPLEMENTAL APPROPRIATIONS CONFERENCE REPORT

Committee on Rules: Granted, by a vote of 9 to 3, a resolution waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The resolution applies the waiver to any special rule reported on the legislative day of October 30, 2003, providing for consideration or disposition of a conference report to accompany the bill (H.R. 3289) making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes.

NASA'S ORGANIZATIONAL AND MANAGEMENT CHALLENGES

Committee on Science: Held a hearing on NASA's Organizational and Management Challenges in the Wake of the Columbia Disaster. Testimony was heard from the following officials of the Department of the Navy: Adm. Frank L. Bowman, USN, Director, Naval Nuclear Propulsion (Naval Reactors); Rear Adm. Paul Sullivan, USN, Deputy Commander, Ship Design Integration and Engineering, Naval Sea Systems Command; Adm. Harold Gehman, USN, (Ret), Chairman, Columbia Accident Investigation Board; and public witnesses.

COMMITTEE MEETINGS FOR THURSDAY, OCTOBER 30, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine Palestinian education, 9:30 a.m., SD–192.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine the Treasury Department's report to Congress on international economic and exchange rate policy, 10 a.m., SD–106.

Committee on Commerce, Science, and Transportation: to hold hearings to examine the universal service, 10 a.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on National Parks, to hold hearings to examine S. 1241, to establish the Kate Mullany National Historic Site in the State of New York, S. 1364, to amend the Alaska National Interest Lands Conservation Act to authorize the payment of expenses after the death of certain Federal employees in the State of Alaska, S. 1433, to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont, and S. 1462, to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, 10 a.m., SD–366.

Subcommittee on Water and Power, to hold hearings to examine S. 1097, to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program, 2:30 p.m., SD–366.

Committee on Foreign Relations: to hold a closed briefing to examine U.S. policy directions relating to Syria, 9 a.m., SH–219.

Full Committee, to hold hearings to examine U.S. policy directions relating to Syria, 10:15 a.m., SH–216.

Subcommittee on European Affairs, to hold hearings to examine combating transnational crime and corruption in Europe, 2:30 p.m., SD–419.

Subcommittee on African Affairs, with the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, to hold joint hearings to examine a report relative to HIV/AIDS Codel to Africa, 3 p.m., S–211, Capitol.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Aging, to hold hearings to examine financial abuse and exploitation of the elderly, 10 a.m., SD–430.

Subcommittee on Children and Families, with the Committee on Foreign Relations, Subcommittee on African Affairs, to hold joint hearings to examine a report relative to HIV/AIDS Codel to Africa, 3 p.m., S–211, Capitol.

Committee on the Judiciary: business meeting to consider S. 1720, to provide for Federal court proceedings in Plano, Texas, S. 710, to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad, S. Con. Res. 58, expressing the sense of Congress with respect to raising awareness and encouraging prevention of stalking in the United States and supporting the goals and ideals of National Stalking Awareness Month, a proposed resolution recognizing that November 2, 2003, shall be dedicated to "A tribute to Survivors" at the United States Holocaust Memorial Museum, and the nominations of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Dora L. Irizarry, to be United States District Judge for the Eastern District of New York, William K. Sessions III, of Vermont, to be a Member of the United States Sentencing Commission, D. Michael Fisher, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, Janice R. Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit, and David L. Huber, to be United States Attorney for the Western District of Kentucky, Department of Justice, 10 a.m., SD–226.

Full Committee, to hold hearings to examine monopsony issues in agriculture, focusing on the buying power of processors in the nation's agricultural markets, 2 p.m., SD–226.

Committee on Veterans' Affairs: to hold hearings to examine the nominations of Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs), and Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology), 2 p.m., SR–418.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Armed Services, Subcommittee on Terrorism, Unconventional Threats and Capabilities, hearing on Destruction of the U.S. Chemical Weapons Stockpile—Program Status and Issues, 9 a.m., 2118 Rayburn.

Committee on Education and the Workforce, Subcommittee on Workforce Protections, hearing on "Energy Employees Workers' Compensation: Examining the Department of Labor's Role in Helping Workers with Energy-Related Occupational Illnesses and Diseases," 10:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Commerce, Trade and Consumer Protection, hearing entitled "E-Commerce: The Case of Online Wine Sales and Direct Shipment," 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, hearing entitled "Reviewing U.S. Capital Market Structure: Promoting Competition in a Changing Trading Environment," 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing entitled "Serving the Underserved in the 21st Century: The Need for a Stronger, More Responsive Public Health Service Commissioned Corps," 10 a.m., 2154 Rayburn.

Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims, to consider private relief bills; followed by an oversight hearing on "The Prospects for American Workers: Immigration's Impact," 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on the GAO report entitled "Opportunities to Improve the Management and Oversight of Oil and Gas Activities on Federal Lands," 9:30 a.m., 1324 Longworth.

Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on the upcoming 18th Regular Meeting of the International Commission for the Conservation of Atlantic Tunas, 2 p.m., 1324 Longworth.

Subcommittee on Water and Power, hearing and markup of the following bills: H.R. 142, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional water recycling project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, and to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project; H.R. 1156, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project; H.R. 2960, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project; and H.R. 2991, Inland Empire Regional Water Recycling Initiative; the Provo River Project Transfer Act; the Riverside-Corona Feeder; and to hold a hearing on the following: H.R. 3334, Riverside-Corona Feeder Authorization Act; the Provo River Project Transfer Act; and S. 212, High Plains Aquifer Hydrogeologic Characterization, Mapping, Modeling and Monitoring Act, 10 a.m., 1334 Longworth.

Committee on Science, Subcommittee on Environment, Technology, and Standards, hearing on "What is Space Weather and Who Should Forecast It?" 10 a.m., 2318 Rayburn.

Subcommittee on Research, hearing on Implementation of the Math Science Partnership Program: Views from the Field, 12 p.m., 2325 Rayburn.

Committee on Small Business, Subcommittee on Regulatory Reform and Oversight, hearing on the impact of unsolicited commercial e-mail (spam) on small businesses, 10:30 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, oversight hearing on The Status of the Federal Aviation Administration's Air Traffic Control Modernization Programs, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, hearing on United States-China Economic Relations and China's Role in the Global Economy, 2 p.m., 1100 Longworth.

Permanent Select Committee on Intelligence, hearing entitled "Securing Freedom and the Nation: Collecting Intelligence Under the Law, Constitutional and Public Policy Consideration," 8:30 a.m., 1302 Longworth.

Select Committee on Homeland Security, to mark up H.R. 2886, Department of Homeland Security Financial Accountability Act, 1 p.m., 210 Cannon.

Subcommittee on Cybersecurity, Science, and Research and Development, hearing entitled "Strength Through Knowledge: Homeland Security Science and Technology; Setting and Steering a Strong Course," 3 p.m., 210 Cannon.

Next Meeting of the **SENATE**

9 a.m., Thursday, October 30

Senate Chamber

Program for Thursday: Senate will resume consideration of the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit; following 60 minutes of debate, Senate will vote on the motion to close further debate on the nomination, to occur at approximately 10 a.m. If cloture is not invoked, Senate will continue consideration of S. 139, Climate Stewardship Act, for two hours; following disposition of S. 139, Senate will continue consideration of H.R. 1904, Healthy Forests Restoration Act, and following disposition of H.R. 1904, Senate will continue consideration of H.R. 2800, Foreign Operations Appropriations Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, October 30

House Chamber

Program for Thursday: Consideration of H.J. Res. 75, making further continuing appropriations for fiscal year 2004 (closed rule, one hour of debate).

Consideration of H. Res. 422, rule providing for consideration of the conference report on H.R. 2115, Flight 100-Century of Aviation Reauthorization Act.

Rolled votes on suspensions:

(1) H. Con. Res. 291, expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993:

(2) H. Res. 409, repudiating the recent anti-Semitic sentiments expressed by Dr. Mahathir Mohamad, the outgoing prime minister of Malaysia, which makes peace in the Middle East and around the world more elusive; and

(3) H. Con. Res. 302, expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003.

Consideration of the conference report on H.R. 2691, Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 2004 (rule waives all points of order, one hour of debate).

Consideration of H.R. 2443, Coast Guard and Maritime Transportation Act of 2003 (open rule, one hour of debate).

Consideration of the conference report on H.R. 2115, flight 100-Century of Aviation Reauthorization Act (rule waives all points of order, one hour of debate).

Possible consideration of H. Res. 421, rule providing for the same day consideration of the conference report on H.R. 32809, Supplemental Appropriations Act for Fiscal Year 2004.

Possible consideration of conference report on H.R. 3289, Supplemental Appropriations Act for Fiscal Year 2004 (Subject to a Rule).

Rolled vote on E.B. Johnson (TX) motion to instruct conferees on H.R. 6, Energy Policy Act of 2003.

Rolled vote on Davis (FL) motion to instruct conferees on H.R. 1, Medicare Prescription Drug and Modernization Act of 2003.

Becerra motion to instruct conferees on H.R. 1308, All-American Tax Relief Act of 2003.

Filner motion to instruct conferees on H.R. 6, Energy Policy Act of 2003.

Capps motion to instruct conferees on H.R. 1, Medicare Prescription Drug and Modernization Act of 2003.

DeLauro motion to instruct conferees on H.R. 2660, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for Fiscal Year 2004.

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