The House met at 10 a.m.  

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule 1, I demand a vote on agreeing to the Speaker's approval of the Journail.  

The SPEAKER. The question is on the Speaker's approval of the Journail.  

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

The SPEAKER. Pursuant to clause B, rule XX, further proceedings on this question will be postponed.  

PlEDE OF ALLoAGIANCE  

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

MESSAGE FROM THE SENATE  

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:  

H.R. 1882. An act 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".  

H.R. 1883. An act 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".  

H.R. 2075. An act to designate 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".  

H.R. 2396. An act to designate the facility of the United States Postal Service located at 3710 West 73rd Terrace in Prairie Village, Kansas, as the "Senator J. B. Pearson Post Office".  

ANNOUNCEMENT BY THE SPEAKER  

The SPEAKER. The Chair will entertain ten 1-minutes on each sides.  

This symbol represents the time of day during the House proceedings, e.g., 1407 is 2:07 p.m.  

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
BREAST CANCER AWARENESS MONTH

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

Mr. BURGESS. Mr. Speaker, as we come to the close of October, I wanted to remind Members that October is designated as Breast Cancer Awareness Month. Each year in the United States, breast cancer is diagnosed in more than 170,000 women. Several recent critical advances, sequencing of the human genome and the development of high throughput techniques for identifying DNA-sequence variants, have accelerated the pace of research aimed at preventing and curing breast cancer.

Drugs such as Tamoxifen have helped to successfully treat thousands of women with breast cancer. Even more advanced, third-generation aromatase inhibitors are challenging Tamoxifen, the current gold standard of care, and providing more satisfying results in this field.

Groundbreaking research is yielding important findings on reducing the recurrence of breast cancer in women who have previously been treated. This is all the more important, because with breast cancer, unlike other malignancies, the symptom-free intervals in some women may be decades.

With these great advances in science and medicine, the medical community is more able to accurately diagnose and treat women with breast cancer. But with over 40,000 women who will die of this disease this year, our work is clearly not done. This month we are reminded of how far we have come, but how far we have to go in fighting this deadly disease.

BREAST CANCER AWARENESS MONTH

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

Ms. CARSON of Indiana. Mr. Speaker, October is National Breast Cancer Awareness Month, and I rise to address the issue of the early detection and prevention of breast cancer.

Breast cancer is the most common form of cancer in women in the United States, and it is second to lung cancer as the most common cancer in women. Breast cancer is also treatable. The earlier breast cancer is found, the more likely it is to be cured.

In my home State of Indiana, the American Cancer Society estimates that 5,000 new cases of breast cancer will be diagnosed, and approximately 900 women will die of breast cancer in 2003.

With early detection, breast cancer can be treated effectively with surgery that preserves the breast, followed by radiation therapy. Local therapy is often used by the radiation oncologist and/or hormonal therapy.

Raising awareness and promoting the continuation of breast cancer research has contributed to more than 2 million breast cancer survivors in the United States today.

In Indianapolis, we have benefited by the 2003 Komen Indianapolis Race for the Cure that registered 37,000 individuals and the BMW Ultimate Drive to donate one dollar on each mile driven during BMW test-drives.

We must continue to raise awareness and support legislation that will aid in the prevention and eventual development of a cure for breast cancer.

ECONOMIC GROWTH

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, tomorrow is Halloween, which means tricks and treats for every American. Today, our economy received a treat of its own, thanks to President Bush’s pro-jobs agenda and economic growth tax cuts. For instance, the economy grew at a staggering 7.2 percent in the third quarter, the fastest pace since 1984. In addition, consumer confidence is on the rise, thanks in large part to a more favorable job market and a belief that this trend will continue.

These are some pretty good treats for the American people and for our economy. But the Democratic candidates for President are offering some pretty frightening tricks. For example, every one of them wants to repeal some or all of the Bush tax cuts. That trick on our people will take the steam out of our robust recovery and kill new job growth.

To the American people I say, be very careful when you are examining who should lead our Nation, because the tricks being offered up are downright scary. Happy Halloween.

DOMESTIC VIOLENCE BILLS

(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, I rise today to recognize two pieces of important legislation that I would like to reintroduce today regarding Domestic Violence Awareness Month. I believe the two bills will help end violence against women.

In the United States, nearly 2 million women are victims of domestic violence. Every 30 seconds, a woman is beaten by her aggressor. This is why there is a continuing need to address this issue.

The Domestic Violence Court Assistance Act will provide grant money from the Violence Against Women Act to establish specific domestic violence courts and provide important functions and a domestic violence court, such as translation and interpretation services for women whose first language may not be English.

DOMESTIC VIOLENCE BILLS

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

Mr. PUTNAM. Mr. Speaker, I rise today to pay tribute to a man of honor and a dear friend, a man who touched so many lives and dedicated himself to making Polk County, Florida, a better place.

Charles Richardson rose from humble beginnings in Polk County and helped to integrate what is now Bartow High School. He began his political career on the Winter Haven City Commission, and rose to be, as a Republican, the first African American ever to serve on the Polk County commission.

He was described as a family man and a jovial leader, with a keen intellect as well as six of his colleagues and wisdom. He was also known as a strong role model for young people, who encouraged them to get an education and to go to college and achieve the American Dream. He is survived by his wife, Karen; two daughters, Ericka and Jantine; and two sons, Charles, Jr., and Elden.

Mr. Speaker, even after being diagnosed with pancreatic and liver cancer, Charles Richardson continued to perform his county commission duties right up to the night he passed. Charles Richardson blessed our community through his hard work and generous nature, and our thoughts and prayers are with his family.

VIETNAM CRACKS DOWN ON UNIFIED BUDDHIST CHURCH OF VIETNAM

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

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to voice my outrage over the government of Vietnam’s recent crackdown on the United Buddhist Church of Vietnam. I just concluded a telephone conversation with the Venerable Thich Tue Sy, a senior monk in that church, who was just sentenced to 2 years of administrative detention for exercising the basic right of freedom of religion, and he is six of his colleagues and colleagues.

Earlier this month, the United Buddhist Church of Vietnam held a meeting to discuss church affairs, to elect
new leadership, and to verify the Vietnamese Prime Minister’s promise of a new era of respect and understanding for religious freedom. In stark contrast to the promise of respect and understanding, Vietnamese authorities disrupted the meeting, intimidated and ultimately arrested the UBCV leadership. The Venerable Thich Huyen Quang and Thich Quang Do, both of whom have been nominated for the Nobel Peace prize, are once again under house arrest. These actions are unconscionable.

Today, I will introduce a resolution regarding the courageous leadership of the UBCV and the urgent need for religious reform in Vietnam.

THE SUPREME COURT CONSIDERS THE PLEDGE

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

Mr. PITTS. Mr. Speaker, this year, the Supreme Court will take up the case of whether children should be allowed to say the words “under God” in the Pledge of Allegiance. This cartoon captures an important point of this case: Does the first amendment allow porn but not God in public discourse?

The ACLU would like you to think so. Their challenge to our laws, which protect our kids from online porn predators, is ridiculous. They want to be this teacher in the cartoon holding up a computer in front of your child saying, “You cannot pledge allegiance ‘under God’ but, here, look at some pornography.”

The fact that this case even made it so far as the courts is a travesty. Something is very wrong with our courts. They say child pornography on the computer is perfectly legal, but the pledge is so offensive that we have to get rid of the words “under God.”

The ACLU is out to sacrifice religion on their own little altar of pornographic speech. This is wrong. The Court should do the right thing for this country, for our children: uphold the pledge and the freedom that is ours to pledge allegiance under God.

IRAQ SUPPLEMENTAL FUNDING

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

Mr. PENCE. Mr. Speaker, I rise today to express my profound disappointment this morning with the news that House and Senate conferees developing the Iraq supplemental bill have apparently removed language which would have made a portion of the reconstruction dollars the American people are sending to Iraq take the form of a loan. I had unsuccessfully offered an amendment in the House which would have made one-half of the reconstruction dollars be repaid to the American taxpayers, and I believe the overwhelming majority of the people of this country believe this oil-rich nation should bear some of the cost of rebuilding its own civil society.

I regret Congress has chosen to reject the counsel of the majority of the American people and the world community. A decent respect for the opinions of mankind should cause Congress to reflect on the fact that at this weekend’s donor conference in Madrid, two-thirds of the $13 billion made available for reconstruction by foreign countries in Iraq takes the form of loans and credits.

In the end, regardless of my disagreement with the means, I will support the Iraq supplemental bill which will go far to ensure the safe return of our troops and the triumph of freedom in this tyranny-weary land.

BREAST CANCER AWARENESS MONTH

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

Ms. WOOLSEY. Mr. Speaker, in the San Francisco Bay area, especially in Marin County in my congressional district, we have some of the highest rates of breast cancer in the Nation. While the toll on Bay area residents has been enormous and heart-breaking, community activists and local health officials are meeting this challenge, providing support to patients and survivors and working to find causes of this epidemic.

When we feel powerless when confronted with the increasing likelihood of contracting breast cancer; but as the Marin County breast cancer community has demonstrated through prevention and research, with hard work and dedication, we will beat this disease.

This year alone, more than 100,000 of our mothers, daughters, sisters, and wives will be diagnosed with breast cancer, and close to 40,000 will die from this dreadful disease.

My wife and I first became aware of National Breast Cancer Awareness Month through our volunteer work with the American Cancer Society. We decided to get involved because so many of our friends and families had been impacted by this terrible disease and we wanted to make a difference.

Over its short history, the National Breast Cancer Awareness Month has successfully raised awareness for the early detection and prevention of breast cancer. As a result, mammography screening rates have doubled since 1985, and breast cancer mortality rates have steadily declined.

Mr. Speaker, the best way for all of us to join in the battle against breast cancer is to help spread the word so as many women as possible that early detection saves lives.

BREAST CANCER AWARENESS MONTH

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

Ms. BERKLEY. Mr. Speaker, today, I rise to introduce a resolution declaring October Breast Cancer Awareness Month. As the husband of a breast cancer survivor, Alfredia Scott, I join with countless others in honoring the courage of other breast cancer patients as they fight to overcome this devastating disease. We honor their families, as they stand with them, hurting just as badly, as they watch over and support their loved ones through their treatment. We honor the doctors, the nurses, and the health care professionals who provide critical help for these patients.

Almost one in nine women in America has been touched by this disease, which strikes one in nine women; and it is the second leading cause of death for women. As many of my colleagues have already noted, our Nation will lose 40,000 people this year. Almost 222,000 new cases will be diagnosed.

We, as legislators, have a responsibility. We must do whatever we can to stop this disease.

As a Georgia State senator, I fought for funding for breast cancer research, and I authored the law that gives breast cancer patients the right to determine their length of stay in the hospital and the medical treatment they receive rather than the insurance companies.

Our inspiration is great: breast cancer survivors who have won their fight, and the friends and families of those women who did not. I urge us to work harder and make sure that we bring a cure to this deadly disease.

BREAST CANCER SURVIVORS AND THEIR FAMILIES

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

Mr. SCOTT of Georgia. Mr. Speaker, I rise today to join with others in expressing my support for breast cancer survivors and their families as we recognize the month of October as Breast Cancer Awareness Month.

As the husband of a breast cancer survivor, my courageous wife, Alfredia Scott, I join with countless others in honoring the courage of other breast cancer patients as they fight to overcome this devastating disease. We urge all women to acknowledge Breast Cancer Awareness Month by taking care of their own health and joining with others to win the war against breast cancer.

Almost everyone in America has been touched by this disease, which affects one in nine women; and it is the second leading cause of death for women. As many of my colleagues have already noted, our Nation will lose 40,000 people this year. Almost 222,000 new cases will be diagnosed.
Ms. BERKLEY. Mr. Speaker, almost everyone has a family member, a friend or a co-worker who has been personally affected by breast cancer. This year, 1,400 women will be diagnosed with invasive breast cancer and 350 women will die from this devastating disease in my State of Nevada.

Two of my closest professional associates, two women who I work with every day, won their battle against breast cancer; they are cancer free. Unfortunately, that is not always the case. I lost my own mother this past July after her 14-year battle against breast cancer.

From these battles I have learned the importance of mammography screening and early detection which have led to higher survival rates. Nevada has the lowest percentage of mammograms performed per capita than any other State in the country, only 65 percent of Nevada women age 40 and over have had mammograms within the last 2 years; this leaves 35 percent of the women in Nevada without any necessary information to arm themselves against this disease and the ability to fight it early on. We must continue to get the word out to women that early detection in the fight against breast cancer is critical.

Mr. KINGSTON. Mr. Speaker, last year Saddam Hussein spent $13 million on health care in Iraq. This year the United States will spend $200 million. Two years ago when Olympic soccer players made a mistake or lost a game, they were tortured and held hostage until they amended their ways and became better soccer players. Now children's soccer teams are springing up all over Iraq.

There has not been much farming going on in Iraq over the last several years; today, farmers are beginning to go back to the fields and replant crops. There has not been much oil production; now we are getting oil back on-stream. Police forces are beginning to control the traffic and order to address essential safety issues; now we are getting oil back on-stream.

Today, this House will pass the Iraqi Freedom Act. Mr. Speaker, I rise today in celebration of Red Ribbon Week, the annual campaign to prevent illegal drug use and promote drug-free communities. All of our children have so much potential. All of our children deserve a chance at life. But it is so sad when families, friends and communities and faith fail a child and they become addicted to drugs. Caring for our children and making sure they do not get addicted to drugs is all of our responsibility.

Mr. Speaker, 81 percent of teenagers ages 14 to 20 have used drugs. One out of four high school seniors has used illegal drugs in the past 30 days; almost 30 percent of young adults have used marijuana in the past. This must change. Our children deserve better. Red Ribbon Week uses community action to educate and help prevent drug abuse. Throughout the United States, many of our schools are participating in this program, informing our children to stay away from drugs. I ask support for Red Ribbon Week in the State of California, and I ask support for Red Ribbon Week throughout our Nation.

WILLIAM J. BACA. Mr. Speaker, I rise today in celebration of Red Ribbon Week, the annual campaign to prevent illegal drug use and promote drug-free communities. I urge my colleagues to support it.
Mr. MCDOUGAL, Mr. Speaker, I demand recorded votes.

A recorded vote was ordered.

The Speaker pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 345, nays 35, answer “present” 1, not voting 30, as follows:

[Recorded Vote]
EXPRESSING GRATITUDE TO MEMBERS OF UNITED STATES ARMED FORCES DEPLOYED IN OPERATION RESTORE HOPE IN SOMALIA IN 1993

The Speaker pro tempore (Mr. Thornberry). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 291.

The Clerk read the title of the concurrent resolution.

The Speaker pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHugh) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 291, on which the years and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 32, as follows:

[Roll No. 582]

YEAS—402

NOES—58

Answered "yea"—1

Tied—30

Not voting—30

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So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:
Mr. POMEROY. Mr. Speaker, on October 30, 2003, I missed rollcall vote No. 582. Had I been present, I would have voted “yea” on this vote, expressing my strong support for H. Con. Res. 291.

PERSONAL EXPLANATION
Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, due to a meeting within the Department of Justice, I unfortunately missed three recorded votes on the House floor earlier today.

I ask unanimous consent that my statement appear in the Record that had I not been unavoidably detained at this meeting, I would have voted “yes” on rollcall vote No. 580 (On Motion to Adjourn); “yes” on rollcall vote No. 581 (On Approving the Journal); and “yes” on rollcall vote No. 582 (On Motion to Suspend the Rules and Agree on 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.

PERSONAL EXPLANATION
Mr. SANDLIN. Mr. Speaker, on Thursday, October 30, 2003, I was unavoidably detained by official business. Had I been present, I would have voted “yes” on rollcall votes No. 580, 581, and 582.

PERSONAL EXPLANATION
Ms. JACkson-Lee of Texas. Mr. Speaker, I was unavoidably detained in my district on official business on October 28, 2003. Had I been present, I would have voted “yea” on rollcall vote No. 569, H. Res. 577, I would have voted “aye” on rollcall vote No. 570, H. Res. 2359, I would have voted “no” on rollcall vote No. 571, motion to instruct, H. R. 6, I would have voted “aye” on rollcall vote No. 572, motion to instruct, H. R. 1308, I would have voted “aye”; and on rollcall vote No. 573, motion to instruct conferences, H. R. 1, I would have voted “aye”.

CONFERENCE REPORT ON H. R. 3289, EMERGENCY, SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE AND FOR THE RECONSTRUCTION OF IRAQ AND AFGHANISTAN, 2004

Mr. YOUNG of Florida submitted the following conference report and statement on 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:

CONFERENCE REPORT (H. REPT. 108–337)

The conference committee of the two Houses on the amendment of the Senate to 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”; 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 stricken and inserted by said amendment insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—NATIONAL SECURITY
CHAPTER 1
DEPARTMENT OF DEFENSE—MILITARY PERSONNEL
MILITARY PERSONNEL, ARMY
For an additional amount for “Military Personnel, Army”, $12,858,870,000.
MILITARY PERSONNEL, NAVY
For an additional amount for “Military Personnel, Navy”, $816,100,000.
MILITARY PERSONNEL, MARINE CORPS
For an additional amount for “Military Personnel, Marine Corps”, $753,190,000.
MILITARY PERSONNEL, AIR FORCE
For an additional amount for “Military Personnel, Air Force”, $3,384,700,000.

OPERATION AND MAINTENANCE
OPERATION AND MAINTENANCE, ARMY
For an additional amount for “Operation and Maintenance, Army”, $1,956,258,000, of which up to $80,000,000 may be transferred to the Department of Homeland Security for Coast Guard Operations.

OPERATION AND MAINTENANCE, MARINE CORPS
For an additional amount for “Operation and Maintenance, Marine Corps”, $1,198,981,000.

OPERATION AND MAINTENANCE, NAVY (INCLUDING TRANSFER OF FUNDS)
For an additional amount for “Operation and Maintenance, Navy”, $3,977,064,000.

PROGRAMS: MILITARY PERSONNEL—OPERATION AND MAINTENANCE
For an additional amount for “Operation and Maintenance, Air Force”, $5,416,368,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE
For an additional amount for “Operation and Maintenance, Defense-Wide”, $4,355,452,000, of which:

(1) not to exceed $15,000,000 may be used for the CINC Initiate Fund account, to be used primarily in Iraq and Afghanistan;

(2) $52,000,000 is only for the Family Advocacy Program; and

(3) not to exceed $1,150,000,000 to remain available until expended, may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical and military support provided, or to be provided, to United States military operations in connection with the global war on terrorism: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the Committees on Appropriations on the use of these funds.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE
For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, $16,000,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE
For an additional amount for “Operation and Maintenance, Air Force Reserve”, $214,000,000.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID
For an additional amount for “Overseas Humanitarian, Disaster, and Civic Aid”, $35,500,000.

IRAQ FREEDOM FUND (INCLUDING TRANSFER OF FUNDS)
For “Iraq Freedom Fund”, $1,988,600,000, to remain available for transfer until September 30, 2005, for the purposes authorized under this heading in Public Law 108–11: Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; military construction; the Defense Health Program; and working capital funds: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purpose herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: Provided further, That $97,000,000 shall be transferred to “Other Procurement, Army” for the procurement of Up-armeded High Mobility Multipurpose Wheeled Vehicles and associated equipment: Provided further, That $10,000,000 shall be for the Family Readiness Program of the National Guard.

PROCUREMENT
PROCUREMENT OF WEAPONS AND TRUCKED COMBAT VEHICLES
For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, $101,600,000, to remain available until September 30, 2006.

OTHER PROCUREMENT, ARMY
For an additional amount for “Other Procurement, Army”, $1,143,687,000, to remain available until September 30, 2006.
For an additional amount for "Aircraft Procurement, Navy", $158,600,000, to remain available until September 30, 2006.

SEC. 1102. For an additional amount for "Research, Development, Test and Evaluation, Navy", $76,500,000, to remain available until September 30, 2006.

For an additional amount for "Research, Development, Test and Evaluation, Navy", $3,438,006,000, to remain available until September 30, 2006.

For an additional amount for "Aircraft Procurement, Air Force", $53,972,000, to remain available until September 30, 2006.

For an additional amount for "Missile Procurement, Air Force", $20,450,000, to remain available until September 30, 2006.

For an additional amount for "Other Procurement, Air Force", $3,488,000,000, to remain available until September 30, 2006.

For an additional amount for "Other Procurement, Air Force", $123,397,000, to remain available until September 30, 2006.

For an additional amount for "Aircraft Procurement, Air Force", $3,438,006,000, to remain available until September 30, 2006.

For an additional amount for "Aircraft Procurement, Air Force", $53,972,000, to remain available until September 30, 2006.

For an additional amount for "Missile Procurement, Air Force", $20,450,000, to remain available until September 30, 2006.

For an additional amount for "Other Procurement, Air Force", $3,488,000,000, to remain available until September 30, 2006.

For an additional amount for "Aircraft Procurement, Defense-Wide", $418,635,000, to remain available until September 30, 2006.

For an additional amount for "Research, Development, Test and Evaluation, Navy", $34,000,000, to remain available until September 30, 2006.

For an additional amount for "Research, Development, Test and Evaluation, Navy", $54,000,000, to remain available until September 30, 2006.

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $59,070,000, to remain available until September 30, 2005.


For an additional amount for "Research, Development, Test and Evaluation, Defense-Wide", $418,635,000, to remain available until September 30, 2006.

For an additional amount for "Aircraft Procurement, Defense-Wide", $3,438,006,000, to remain available until September 30, 2006.

For an additional amount for "Missile Procurement, Defense-Wide", $260,817,000, to remain available until September 30, 2006.

For an additional amount for "Military Procurement, Marine Corps", $123,397,000, to remain available until September 30, 2006.

For an additional amount for "Missile Procurement, Marine Corps", $20,450,000, to remain available until September 30, 2006.

For an additional amount for "Other Procurement, Marine Corps", $123,397,000, to remain available until September 30, 2006.

For an additional amount for "Aircraft Procurement, Marine Corps", $53,972,000, to remain available until September 30, 2006.

For an additional amount for "Aircraft Procurement, Marine Corps", $21,937,000, to remain available until September 30, 2006.

For an additional amount for "Defense Working Capital Funds", $260,817,000, to remain available until September 30, 2006.

For an additional amount for "Defense Working Capital Funds", $560,000,000, to remain available until September 30, 2006.

For an additional amount for "Defense Working Capital Funds", $6,700,000, to remain available until September 30, 2006.

For an additional amount for "National Defense Sealift Fund", $24,000,000, to remain available until expended.

For an additional amount for "National Defense Sealift Fund", $2,000,000,000, to remain available until expended.

For an additional amount for "National Defense Sealift Fund", $2,000,000,000, to remain available until expended.

SEC. 1105. DEFENSE EMERGENCY RESPONSE FUNDS (TRANSFER OF FUNDS)

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $250,000,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $3,438,006,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $418,635,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $76,500,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $54,000,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $59,070,000, to remain available until September 30, 2005.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $260,817,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $418,635,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $76,500,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $54,000,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $59,070,000, to remain available until September 30, 2005.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $260,817,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $418,635,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $76,500,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $54,000,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $59,070,000, to remain available until September 30, 2005.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $260,817,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $418,635,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $76,500,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $54,000,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $59,070,000, to remain available until September 30, 2005.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $260,817,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $418,635,000, to remain available until September 30, 2006.

For an additional amount for "Emergency Response Funds (Transfer of Funds)", $76,500,000, to remain available until September 30, 2006.
"(B) waiving recovery of any unpaid amount for which a person has previously been charged under that section and which that person, by reason of paragraph (1), is not required to pay.

Sec. 1113. None of the funds available to the Department of Defense may be obligated to implement any action which alters the command relationships or basic financial assignments by the Secretary until 270 days after such plan has been provided to the congressional defense committees.

Sec. 1134. Section 1074a of title 10, United States Code, as amended by adding at the end the following new subsection:

"(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that they may be called or ordered to active duty, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

(2) The Secretary concerned shall promptly transmit to each member of the Ready Reserve eligible for screening and care under this subsection a notification of eligibility for such screening and care.

(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

(4) Screening and care may not be provided under this section after September 30, 2004.

Sec. 1155. (a) Chapter 55 of title 10, United States Code, is amended by inserting after section 1076a the following new section:

"1076b. TRICARE program; coverage for members of the Ready Reserve.

"(a) ELIGIBILITY.—Each member of the Select Reserve of the Ready Reserve and each member of the Individual Ready Reserve described in section 1014(b)(1) of this title is eligible, subject to subparagraphs (A), (D), and (I) of section 1072(2) of this title, to enroll in the TRICARE program and receive benefits under such enrollment for any period that the member—

(1) is an eligible unemployment compensation recipient; or

(2) is not eligible for health care benefits under an employer-sponsored health benefits plan.

(b) TYPES OF COVERAGE.—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

(A) Self and family care.

(2) An enrollment for self and family care covers the member and the dependents of the member.

(c) OPEN ENROLLMENT PERIODS.—The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subsection (a) may enroll in the TRICARE program or change or terminate an enrollment in the TRICARE program.

(d) SCOPE OF CARE.—(1) A member and the dependents of a member enrolled in the TRICARE program under this section shall be entitled to benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively.

(2) Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.

(e) PREMIUMS.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section.

(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the determined amount, as determined by the Secretary, for the operation of the TRICARE program on an actuarial basis as being reasonable for the coverage.

(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of title 37 or from compensation payable to the member for any other reason.

(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1145 of title 10.

(f) OTHER CHARGES.—A person who receives health care pursuant to a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(g) TERMINATION OF ENROLLMENT.—(1) A member enrolled in the TRICARE program under this section may terminate the enrollment only during an open enrollment period provided under subsection (c), except as provided in subsection (h).

(2) An enrollment of a member for self alone or for self and family under this section shall terminate the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

(3) The enrollment of a member under this section may terminate on the basis of failure to pay the premium charged the member under this section.

(h) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—(1) A member may not enroll in the TRICARE program under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

(2) A member who enrolls in the TRICARE program under this section within 90 days after the date of the termination of the member’s entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate such enrollment any time within one year after the date of the enrollment.

(i) CERTIFICATION OF NONCOVERAGE BY OTHER HEALTH BENEFITS PLAN.—The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member’s assertion that the member is not covered for health care benefits under any other health benefits plan.

(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPIENT DEFINED.—In this section, the term ‘eligible unemployment compensation recipient’ means any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

(k) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(1) TERRITORIES AND POSSESSIONS.—An enrollment in TRICARE under this section may not continue after September 30, 2004.

(b) The table of sections at the beginning of this Act and ending on September 30, 2004, is amended by adding the following new item relating to section 1076a the following new item:

"1076b. TRICARE program; coverage for members of the Reserve Ready."

SEC. 1116. Section 1074 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(l) For the purpose of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effect-date active-duty order, or is covered by such an order, shall be considered as being on active duty for a period of more than 30 days beginning on the later of the date that is—

(1) the date on which the issuance of such order; or

(2) 90 days before date on which the period of active duty is to commence under such order for that member.

This subsection, the term ‘delayed-effect-date active-duty order’ means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

This section shall cease to be effective on September 30, 2004.

"(m) Subject to subsection (b), during the period beginning on the date of the enactment of this Act and ending on September 30, 2004, section 1145(a) of title 10, United States Code, shall be administered by substituting for paragraph (3) the following:

"(3) A member enrolled in the TRICARE program under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.

Sec. 1117. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under Section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet operational requirements of the Armed Forces.

Sec. 1118. The authority to utilize funds appropriated for fiscal years ending in the period beginning on October 1, 2004, and ending on September 30, 2006, shall apply to the utilization of available funds appropriated for fiscal year 2004 for such purposes.

Sec. 1120. (a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

(b) Each report shall include the following information:

(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

(2) An assessment of the progress made toward preventing attacks on United States personnel.

(3) An assessment of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

"1076b. TRICARE program; coverage for members of the Reserve Ready."

CONGRESSIONAL RECORD — HOUSE
(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities supported by the appropriation, shall be included.

(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military construction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 13204 of title 10, United States Code.

(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 13204 of title 10, United States Code, the following information:

(A) The unit.

(B) The projected date of return of the unit to its home station.

(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.

Sec. 1121. In addition to amounts made available elsewhere in this Act, there is hereby appropriated—

(A) to the Department of Defense, $100,000,000, for "Operation and Maintenance, Army": Provided, That these funds are available only for the purpose of securing and destroying conventional munitions in Iraq, such as bombs, bomb materials, small arms, rocket propelled grenades, and shoulder-launched missiles.

CHAPTER 2
DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD
OPERATING EXPENSES
For an additional amount for "Operating Expenses", $23,183,000, for costs related to Hurricane Isabel damage.

EMERGENCY PREPAREDNESS AND RESPONSE
DISSASTER RELIEF
For an additional amount for "Disaster Relief", $500,000,000, to remain available until expended.

GENERAL PROVISION, THIS CHAPTER
SEC. 1301. (a) TEMPORARY AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR MILITARY CONSTRUCTION PROJECTS.—During fiscal year 2004, the Secretary of Defense may use this section as authority to obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United States, if the Secretary of Defense determines that the project meets each of the following conditions:

(1) The construction is necessary to meet urgent military operational requirements of a temporary nature involving the use of the Armed Forces in support of Operation Iraqi Freedom or the Global War on Terrorism.

(2) The construction is not carried out at a military installation where the United States is reasonably expected to have a long-term presence.

(3) The United States has no intention of using the construction after the operational requirements have been satisfied.

(b) LIMITATION ON USE OF AUTHORITY.—The level of construction is the minimum necessary to meet the temporary operational requirements.

(c) NOTIFICATIONS OF OBLIGATIONS OF FUNDS.—Within fifteen days after the date on which appropriated funds available for operation and maintenance are obligated for a construction project, the Secretary of Defense shall submit to the Congress a report on the worldwide obligation and expenditure during that quarter of such funds.

(d) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each fiscal-year quarter of fiscal year 2004, the Secretary of Defense shall submit to the Congress a report on the worldwide obligation and expenditure during that quarter of the appropriation for "Operation and Maintenance, Army", and the limited authority provided by section 510(a) of title 10, United States Code, to use appropriated funds available for operation and maintenance to carry out construction projects are the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects.

(e) CONGRESSIONAL COMMITTEES.—The temporary authority provided by this section, and the limited authority provided by section 2005(c) of title 10, United States Code, to use appropriated funds available for operation and maintenance to carry out construction projects are the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects.

(f) CONGRESSIONAL COMMITTEES.—The temporary authority provided by this section, and the limited authority provided by section 2005(c) of title 10, United States Code, to use appropriated funds available for operation and maintenance to carry out construction projects are the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects.

TITLES II—IRAQ AND AFGHANISTAN RECONSTRUCTION AND INTERNATIONAL ASSISTANCE
CHAPTER 1
DEPARTMENT OF JUSTICE
LEGAL ACTIVITIES
GENERAL LEGAL ACTIVITIES
For necessary expenses for "Salaries and Expenses, General Legal Activities", $15,000,000.

DEPARTMENT OF STATE AND RELATED AGENCY
DEPARTMENT OF STATE
ADMINISTRATION OF FOREIGN AFFAIRS
DIPLMATIC AND CONSULAR PROGRAMS
INCLUDING RESCSSION
For necessary expenses for "Diplomatic and Consular Programs", $156,300,000, of which $35,800,000 shall remain available until September 30, 2006.

For the funds appropriated under this heading in the Emergency Wartime Supplemental Appropriations Act, 2003, $35,800,000, to be available until expended.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE
For necessary expenses for "Embassy Security, Construction, and Maintenance", $43,900,000, to remain available until expended:

Provided, That funds provided under this heading do not include facilities requirements specific to the United States Agency for International Development, which is provided under the heading “United States Agency for International Development, Operating Expenses, General Administrative Services”, $83,000,000.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE
INCLUDING TRANSFER OF FUNDS
For necessary expenses for "Emergencies in the Diplomatic and Consular Service", $115,500,000, to remain available until expended, which may be transferred to, and merged with, the appropriations for "Diplomatic and Consular Programs": Provided, That the funds made available under this heading, $65,500,000 may be transferred to, and merged with, the appropriations for "Protection of Foreign Missions and Officials"; of which $32,000,000 is for the reimbursement of the City of New York for costs associated with the protection of foreign missions and officials during the state of alert following the September 11, 2001, terrorist attacks on the United States; of which
$8,500,000 is for costs associated with the 2003 Free Trade Area of the Americas Ministerial meeting; and of which $25,000,000 is for costs associated with the 2004 Summit of the Industrialized Nations notwithstanding the limitation of 3 U.S.C. 202(10): Provided further, That of the funds previously appropriated under this heading, $2,000,000 is for rewards for an indictee of the Special Court for Sierra Leone: Provided further, That any transfer of funds provided under this heading shall be treated as a reprogramming of funds under section 605 of Public Law 93-638: Provided further, That of the funds appropriated under this heading, $10,000,000 shall be made available to the United States Institute for Peace for activities supporting peace enforcement, peacekeeping and post-conflict stabilization in the Middle East: Provided further, That of the funds appropriated under this heading, $245,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS
CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES
For necessary expenses for “Contributions for International Peacekeeping Activities”, $245,000,000, to remain available until expended.

RELATED AGENCY
BROADCASTING BOARD OF GOVERNORS
INTERNATIONAL BROADCASTING OPERATIONS
For necessary expenses for “International Broadcasting Operations”, for activities related to the Middle East Television Network broadcast to Iraq, $40,000,000.

GENERAL PROVISION—THIS CHAPTER
SEC. 201. Funds appropriated under this chapter for the Broadcasting Board of Governors or any other agency of the United States shall be reprogrammed, and expended notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and section 15 of the State Department Basic Authorities Act of 1996, as amended.

CHAPTER 2
BILATERAL ECONOMIC ASSISTANCE
FUNDS APPROPRIATED TO THE PRESIDENT
UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
For an additional amount for “Operating Expenses of the United States Agency for International Development”, $30,100,000, for direct support of operations in Afghanistan, to remain available until September 30, 2005.

In addition, for direct support of operations in Iraq, $1,900,000, which shall be transferred to and made available for Operating Expenses of the United States Agency for International Development Office of Inspector General for financial and performance audits of the Iraq Relief and Reconstruction Fund and other assistance to Iraq, to remain available until September 30, 2005.

CAPITAL INVESTMENT FUND
For an additional amount for “Capital Investment Fund”, $16,600,000, to remain available until expended: Provided, That the Administrator of the United States Agency for International Development shall assure fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and reasonable rental payments shall be deposited into this account as an offsetting collection: Provided further, That the rental payments collected pursuant to the previous proviso and deposited as an offsetting collection shall be available for obligation only pursuant to the regular notification procedures of the Committees on Appropriations.

OTHER ECONOMIC ASSISTANCE
FUNDS APPROPRIATED TO THE PRESIDENT
IRAQ RELIEF AND RECONSTRUCTION FUND
(INCLUDING TRANSFERS OF FUNDS)
For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961, for security, public safety, infrastructure, and civil society, of which $1,234,000,000 shall be made available for demobilization and transitional assistance in Iraq, $18,649,000,000, to remain available until September 30, 2006, to be allocated as follows:

- $3,243,000,000 for security and law enforcement;
- $1,318,000,000 for justice, public safety infrastructure, and civil society, of which $1,000,000,000 shall be made available for demobilization and transitional assistance in Iraq;
- $10,000,000 shall be made available to the United States Institute for Peace for activities supporting peace enforcement, peacekeeping and post-conflict stabilization in the Middle East; and
- $1,980,000,000 for oil infrastructure;
- $4,332,000,000 for water resources and sanitation;
- $500,000,000 for transportation and telecommunications infrastructure, roads, bridges, and construction;
- $793,000,000 for health care;
- $153,000,000 for private sector development; and
- $280,000,000 for refugees, human rights, and governance: Provided, That the President may reallocate up to 10 percent of any of the preceding allocations, except that the total amount appropriated for each function may not be increased by more than 20 percent: Provided further, That the President may increase one such allocation only by up to an additional 20 percent in the event of unforeseen or emergency circumstances: Provided further, That such reallocations shall be subject to the regular notification procedures of the Committees on Appropriations of the Congress: Provided further, That the rental payments collected pursuant to the Foreign Assistance Act of 1961 and notifications shall be transmitted at least 15 days in advance of the obligation of funds: Provided further, That the United States Agency for International Development, of the funds appropriated under this heading, shall be apportioned only to the Coalition Provisional Authority in Iraq (in its capacity as an entity of the United States Government), the Department of Health and Human Services, the Department of Commerce, the Department of Agriculture, the Department of Labor, the Department of State, the Department of Justice, and the Department of Housing and Urban Development.

For necessary expenses of the Coalition Provisional Authority in Iraq, established pursuant to United Nations Security Council resolutions including Resolution 1483, for personnel costs, for all United States agencies, in buildings constructed using funds appropriated by this Act and for the preparation and maintenance of public records required by this Act.

ECONOMIC SUPPORT FUND
For an additional amount for “Economic Support Fund”, $872,000,000, to remain available until December 31, 2004: Provided, That not less than $672,000,000 is available only for accelerated assistance for Afghanistan: Provided further, That these funds are made available notwithstanding section 611 of the Foreign Assistance Act of 1961, and section 620(q) of that Act or any comparable provision of law: Provided further, That these funds may be used for activities related to providing economic and humanitarian assistance, including to the integrated military assistance plans, security assistance, to support the integration of militia combatants, including registration of such combatants, notwithstanding section 531(e) of the Foreign Assistance Act of 1961, and section 620(q) of that Act or any prior appropriations Act for the purpose of deploying and supporting senior advisors to the United States Chiefs of Mission in Kabul, Afghanistan, that are subject to the regular reprogramming and notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, and section 620(q) of that Act: Provided, That of the funds made available by this Act or any prior appropriations Act for the purpose of deploying and supporting senior advisors to the United States Chiefs of Mission in Kabul, Afghanistan, that are subject to the regular reprogramming and notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961, and section 620(q) of that Act: Provided, That $60,000,000 should be made available for assistance for Afghan women and girls and $5,000,000 shall be made available for the Afghan Independent Election Commission: Provided further, That not less than $8,000,000 is available only for the provision of adequate dedicated air transport and support for civilian personnel at provincial reconstruction team sites: Provided further, That upon the receipt by the Speaker of the House of Representatives and the President of the Senate of a determination by the President that the Government of Pakistan is cooperating with the United States in the global war on terrorism, not to exceed $200,000,000 appropriated under this heading may be used for the construction of section 502 of the Congressional Budget Act of 1974, of modifying direct loans and guarantees to Pakistan: Provided further, That amounts that are transferred back to this appropriation are not necessary for the purposes provided for in this Act: Provided further, That provisions of laws permitting modification of direct loans and guarantees shall not be considered “assistance” for the
purposes of provisions of law limiting assistance to a country.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for International Disaster and Famine Assistance utilizing the general authorities of section 491 of the Foreign Assistance Act of 1961, to respond to or prevent unforeseen complex foreign crises in Liberia and Sudan, $110,000,000, to be transferred not to exceed 0.5 percent of the funds appropriated under any other heading in this chapter, to remain available until September 30, 2005: Provided, That funds appropriated under this heading may be made available only pursuant to a determination by the President, after consultation with appropriate congressional committees, that it is in the national interest and essential to efforts to reduce international terrorism to furnish assistance on such terms and conditions as he may determine for such purposes, including support for peace and humanitarian intervention operations: Provided further, That none of these funds shall be available to respond to natural disasters: Provided further, That funds made available under this heading to respond to or prevent unforeseen complex foreign crises shall be subject to the notification procedures of the Committees on Appropriations: Provided further, That not less than $100,000,000 of the funds appropriated under this heading shall be made available for Liberia.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, $70,000,000, to remain available until December 31, 2004, for accelerated assistance for Afghanistan.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, $35,000,000, for accelerated assistance for Afghanistan.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for the “Foreign Military Financing Program”, $287,000,000, for accelerated assistance for Afghanistan.

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, $50,000,000, to support the global war on terrorism.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 2001. None of the funds appropriated by this Act or any unexpended funds provided in Public Law 108-11 may be used to repay, in whole or in part, principal or interest on any loan or guarantee agreement entered into by the Government of Iraq with any private or public sector entity, including with the government of any country (including any agency of such government or any entity owned in whole or in part by the government of such country) or with any international institution, prior to May 1, 2003: Provided, That for the purpose of this section, the term “international financial institution” shall mean those institutions contained in section 2 of division E of Public Law 108-7.

SEC. 2002 (a) Notwithstanding any other provision of law, none of the funds appropriated by this Act or any unexpended funds provided in Public Law 108-11 may be used to repay, in whole or in principal or interest on any loan or guarantee agreement entered into by the Government of Iraq with any private or public sector entity, including with the government of any country (including any agency of such government or any entity owned in whole or in part by the government of such country) or with any international institution, prior to May 1, 2003: Provided, That for the purpose of this section, the term “international financial institution” shall mean those institutions contained in section 2 of division E of Public Law 108-7.

(b) This section shall also apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and open competitive procedures, except in accordance with the Federal Property and Administrative Provisions Act (41 U.S.C. 251 et seq.), and any exception, if deemed necessary, shall be only upon the written approval of the Administrator of the Coalition Provisional Authority and the head of the Executive agency with which the contract is entered into, and managing such contract and such authority shall not be delegated.

(b) This section shall also apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and open competitive procedures, except in accordance with the Federal Property and Administrative Provisions Act (41 U.S.C. 251 et seq.), and any exception, if deemed necessary, shall be only upon the written approval of the Administrator of the Coalition Provisional Authority and the head of the Executive agency with which the contract is entered into, and managing such contract and such authority shall not be delegated.

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(b) This section shall also apply to any extension, amendment or modification of contracts entered into prior to the enactment of this Act using other than full and open competitive procedures, except in accordance with the Federal Property and Administrative Provisions Act (41 U.S.C. 251 et seq.), and any exception, if deemed necessary, shall be only upon the written approval of the Administrator of the Coalition Provisional Authority and the head of the Executive agency with which the contract is entered into, and managing such contract and such authority shall not be delegated.
the report: Provided further, That in addition such report shall include the following:

(1) The use of all funds on a project-by-project basis for which funds appropriated under such heading were obligated prior to the submission of the report, including estimates by the CPA of the costs required to complete each project.

(2) The distribution of duties and responsibilities among the agencies of the United States Government.

(3) Revenues to the CPA attributable to or consisting of funds provided by foreign governments and international organizations that are not disbursed by the CPA.

(b) Any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures.

(c) The report required by subsection (a) shall be submitted and transmitted to the Committees on Appropriations every 3 months and shall include such information on the status of the projects as will make it possible to assess the estimated costs and time required for completion of such projects.

(d) The requirements of this section shall expire on December 31, 2004.

SEC. 2208. Any reference in this chapter to the "Coalition Provisional Authority in Iraq" or the "Coalition Provisional Authority" shall be deemed to include any successor United States Government entity with the same or substantially the same authorities and responsibilities as the Coalition Provisional Authority in Iraq.

SEC. 2209. Any reference in this chapter to the "Coalition Provisional Authority in Afghanistan" or the "Coalition Provisional Authority" shall be deemed to include any successor United States Government entity with the same or substantially the same authorities and responsibilities as the Coalition Provisional Authority in Afghanistan.

SEC. 2210. Funds made available in chapter 2 of this title may be obligated or expended by the Secretary of Defense, in consultation with the Secretary of State, for any purpose pursuant to the authority of this section if such funds are transferred pursuant to the authority of this section.

SEC. 2211. Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any project authorized by title IV of the Foreign Assistance Act of 1961 in Afghanistan or Iraq.

SEC. 2212. In addition to transfer authority otherwise provided in chapter 2 of this title, any appropriation made available in chapter 2 of this title may be transferred between such appropriations, to be available for the same purposes and the same time as the appropriation to which transferred.

SEC. 2213. Public Law 107-57 is amended—

(1) in section 1(b), by striking "2003" wherever appearing (including in the caption), and inserting in lieu thereof "2004";

(2) in section 3(2), by striking "Foreign Operations Appropriations Act, 2002, as is" and inserting in lieu thereof "annual foreign operations, export financing, and related programs appropriations Acts for fiscal years 2002, 2003, and 2004, as are"; and

(3) in section 6, by striking "2003" and inserting in lieu thereof "2004".

SEC. 2214. The Secretary of the Treasury shall consult with the Secretary of State, in consultation with the Committees on Appropriations, to determine whether and when the President should transmit to Congress the report required by section 108(a), by striking "$425,000,000 for each of fiscal years 2004, 2005, and 2006" and inserting in lieu thereof "$425,000,000 for each of fiscal years 2004 and 2005 and 2006".

SEC. 2215. REPORTS ON IRAQ AND AFGHANISTAN. (a) The Coalition Provisional Authority (CPA) shall, on a monthly basis until September 30, 2006, submit a report to the Committees on Appropriations which details, for the preceding month, Iraqi oil production and oil revenues, and uses of such revenues.

(b) The first report required by this subsection shall be submitted not later than 30 days after enactment of this Act, and each subsequent report shall be submitted not later than 30 days after enactment of this Act.

(c) The following shall be submitted in each report:

(1) The amount of debt incurred by the Government of Saddam Hussein in Iraq, the impact of forgiveness of such debt on reconstruction and long-term prosperity in Iraq, and the estimated amount that Iraq will pay, or that will be paid on behalf of Iraq, to a foreign country for such debt, for fiscal year 2004.

(2) The efforts of the government of the United States to increase resources contributed by foreign countries and international organizations, including the United Nations, to the reconstruction and rehabilitation of Iraq and to increase international participation in peacekeeping and security efforts in Iraq.

(3) The manner in which the needs of people with disabilities are being addressed in the development and implementation of programs, projects and activities supported by the United States Government in Iraq and Afghanistan.

(4) The progress being made toward indicting and trying leaders of the former regime for war crimes, genocide, and crimes against humanity.

(5) The efforts of relevant Iraqi officials and legal advisors to ensure that a new Iraqi constitution preserves religious freedom and tolerance of all faiths.

(d) The Title III of Public Law 107-327 is amended as follows by inserting the following new section:

"SEC. 304. REPORTS.

"The Secretary of State shall submit reports to the Committees on Foreign Relations and Appropriations of the Senate, and the Committees on International Relations and Appropriations of the House of Representatives on progress made in accomplishing the 'Purposes of Assistance' set forth in section 102 of this Act utilizing assistance provided by the United States for Afghanistan. The first report shall be submitted no later than December 31, 2003, and subsequent reports shall be submitted in conjunction with reports required by the title and thereafter through December 31, 2004.'"

SEC. 2216. None of the funds appropriated or otherwise made available under chapter 2 of this title may be expended for any activity in contravention of Articles 1 and 4 of the Optional Protocol to the Convention on the Rights of the Child on the Implementation of Children in Armed Conflicts.

SEC. 2217. PARTICIPATION OF WOMEN IN AFGHANISTAN AND IRAQ RECONSTRUCTION. (a) GOVERNANCE.—Activities carried out by the United States with respect to the civilian governance of Afghanistan and Iraq shall, to the maximum extent practicable—

(1) include the perspectives and advice of women's organizations in Afghanistan and Iraq, respectively;

(2) promote the high-level participation of women in all future legislative and executive bodies and ministries and ensure that human rights for women are upheld in any constitution or legal institution of Afghanistan and Iraq, respectively;

(b) POST-CONFLICT RECONSTRUCTION AND DE-CONFLICT RECONSTRUCTION.—Activities carried out by the United States with respect to post-conflict stability in Afghanistan and Iraq shall, to the maximum extent practicable—

(1) include the perspectives and advice of women's organizations in Afghanistan and Iraq, respectively;

(2) increase the access of women to, or ownership of, productive assets such as land, water, agricultural inputs, credit, and property in Afghanistan and Iraq, respectively;

(3) promote the high level participation of women in all future legislative and executive bodies and ministries and ensure that human rights for women are upheld in any constitution or legal institution of Afghanistan and Iraq, respectively; and

(c) military and police.—Activities carried out by the United States with respect to training for military and police forces in Afghanistan and Iraq shall include training, designed in consultation with women's organizations in Afghanistan and Iraq, respectively, on the protection, rights, and particular needs of women.

TITLE III—INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY

SEC. 3001. INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To provide for the independent and objective oversight and supervision of investigations relating to the programs and operations of the Coalition Provisional Authority (CPA).

(2) To provide for the independent and objective leadership and coordination of, and recommendations on, policies designed to—

(A) promote economy, efficiency, and effectiveness in the administration of such programs and operations; and

(B) prevent and detect fraud and abuse in such programs and operations.

(3) To provide for an independent and objective means of keeping the head of the Coalition Provisional Authority fully and currently informed about problems and deficiencies relating to programs and operations of the Coalition Provisional Authority (CPA) or the Inspector General of the Coalition Provisional Authority.

(b) APPOINTMENT OF INSPECTOR GENERAL.—There is hereby established the Office of the Inspector General of the Coalition Provisional Authority.

(c) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—(1) The head of the Office of the Inspector General of the Coalition Provisional Authority is the Inspector General of the Coalition Provisional Authority, who shall be appointed by the Secretary of Defense, in consultation with the Secretary of State.

(2) The appointment of Inspector General shall be made solely on the basis of integrity.
out, or completing any audit or investigation, or the Inspector General from initiating, carrying
the Department of Defense, the Department Provisional Authority, nor any other officer
cable laws and regulations governing the civil
United States Code.

spector General shall be the annual rate of basic
section 3(b) of the Inspector General Act of 1978
spector General shall be made not later than 30
as, public administration, or investigations.
(3) The nomination of an individual as Inspect
General shall be made not later than 30 days after
(4) The Inspector General shall be removable from
ance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).
(5) For purposes of section 7324 of title 5, United
the Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of federal law.
(6) The basic pay of the Inspector General shall be the annual rate of basic pay provided for at position level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) ASSISTANT INSPECTORS GENERAL.—The Inspector General shall, in accordance with applicable laws and regulations governing the civil service—
(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the Coalition Provisional Authority; and
(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

(e) SUPERVISION.—(1) Except as provided in paragraph (2), the Inspector General shall report directly to, and be under the general supervision of, the head of the Coalition Provisional Authority.
(2) Neither the head of the Coalition Provisional Authority, any other officer of the Coalition Provisional Authority, nor any other officer of the Department of Defense, the Department of State, or the United States Agency for International Development shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

(f) DUTIES.—(1) It shall be the duty of the Inspector General to conduct, supervise, and coordinate audits and investigations of the treatment, handling, and expenditure of appropriated funds; and of the Coalition Provisional Authority in Iraq, and of the programs, operations, and contracts carried out utilizing such funds, including—
(a) the oversight and accounting of the obligation and expenditure of such funds;
(b) the monitoring and review of reconstruction activities funded by such funds;
(c) the monitoring and review of contracts funded by such funds;
(d) the monitoring and review of the transfer of such funds and associated information between and among the Coalition Provisional Authority, other departments, agencies, and entities of the Federal Government, and private and nongovernmental entities; and
(e) the maintenance of records on the use of such funds to facilitate future audits and investigations;
(2) The Inspector General shall maintain, and oversee such systems, procedures, and controls as the Inspector General considers appropriate to discharge the duty under paragraph (1).
(3) In addition to the duties specified in paragraphs (2) and (3), the Inspector General shall also have duties and responsibilities of inspectors general under the Inspector General Act of 1978.
(4) In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, the Department of Defense.
(5) In carrying out the duties, responsibilities, and authorities of the Inspector General under this section, the Inspector General shall coordinate with, and receive the cooperation of, the Department of Defense.

(g) PROVISIONAL AUTHORITY.—(1) In carrying out the duties specified in subsection (f), the Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978.

(h) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—(1) The Inspector General may select, appoint, and employ employees as may be necessary for carrying out the duties of the Inspector General, subject to the provisions of title 5, United States Code, governing appointments for the civil service; and the provisions of chapter 51 and subchapter III of chapter 55 of such title, relating to classification and General Schedule pay rates.
(2) The Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-15 of the General Schedule for such title.
(3) To the extent and in such amounts as may be provided in advance by appropriations Acts, the Inspector General may enter into contracts and other agreements for auditing, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(i) ADMITTANCE OF INSPECTOR GENERAL.—(A) Upon request of the Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, as far as is practicable and not in contravention of any existing law, furnish such information or assistance to the Inspector General, or an authorized designee.
(B) Whenever information or assistance requested by the Inspector General is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the Coalition Provisional Authority and to the appropriate committees of Congress without delay.
(5) The head of the Coalition Provisional Authority shall provide the Inspector General with appropriate and adequate office space at the site of the Coalition Provisional Authority, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the office and to provide necessary maintenance services for such offices and the equipment and facilities located therein.

(j) REPORT.—(1) Not later than March 30, 2004, and every calendar quarter thereafter, the Inspector General shall submit to the appropriate committees of Congress a report meeting the requirements of section 5 of the Inspector General Act of 1978.
(2) A report described in this paragraph is any major contract or other agreement that is entered into by the Coalition Provisional Authority with any public or private sector entity for any of the following purposes:
(A) To build or rebuild physical infrastructure of Iraq.
(B) To establish or reestablish a political or social institution of Iraq.
(C) To provide products or services to the people of Iraq.
(3) Not later than June 30, 2004, and semiannually thereafter, the Inspector General shall submit to the appropriate committees of Congress a report meeting the requirements of section 5 of the Inspector General Act of 1978.
(4) The Inspector General shall publish each report under this subsection in both English and Arabic on the Internet website of the Coalition Provisional Authority.
(5) Each report under this subsection may include a classified annex if the Inspector General considers it necessary.

(k) REPORT.—In this subsection shall be construed to authorize the public disclosure of information that is—
(A) specifically prohibited from disclosure by any other provision of law;
(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or
(C) a part of an ongoing criminal investigation.

(l) REPORT.—(1) The Inspector General shall also submit each report under subsection (i) to the head of the Coalition Provisional Authority.
(2) Not later than 30 days after receipt of a report under paragraph (1), the head of the Coalition Provisional Authority may submit to the appropriate committees of Congress any comments on the matters covered by the report as the head of the Coalition Provisional Authority considers appropriate.

(m) REPORT.—A report under this paragraph may include a classified annex if the head of the Coalition Provisional Authority considers it necessary.

(n) TRANSPARENCY.—(1) Not later than 60 days after the date of the submission to Congress of a report under subsection (i), the head of the Coalition Provisional Authority shall make copies of such report available to the public upon request, and at a reasonable cost.
(2) Not later than 60 days after the date of the submission to Congress of a report under subsection (i), the head of the Coalition Provisional Authority shall make copies of such reports available to the public upon request, and at a reasonable cost.

(o) WAIVER.—(1) The President may waive the requirement under paragraph (1) or (3) of subsection (i) for the inclusion in a report under such paragraph of any element otherwise prohibited from disclosure under such subsection if the President determines that the waiver is justified for national security reasons.
(2) The President shall publish a notice of each waiver made under this subsection in the Federal Register no later than the date on which the reports required under paragraph (1) or (3) of subsection (i) are submitted to Congress. The reports required under paragraph (1) or (3) of subsection (i) shall specify whether waivers under this subsection were made and with respect to which elements.

(m) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and International Relations of the House of Representatives.

(n) FUNDING.—(1) Of the amounts appropriated for fiscal year 2004 for the Operating Ex- cesses of the Coalition Provisional Authority in title II of this Act, $75,000,000 shall be available to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(o) The Office of Inspector General shall terminate 6 months after the authorities and duties specified in other sections of this Act, but due to the deployment of both parents while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

This Act may be cited as the “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.”

And the Senate agree to the same.

BILL YOUNG, ERNEST P. HOLLINGS, TOM HARKIN, MIKE DEWINE, SAM BROWNBACK, BEN NIGHTHORSE, ROBERT F. BENNETT, CHET EDWARDS, NITA M. LOWEY, MITCH MCCONNELL, BILL YOUNG, JERRY LEWIS, MAL ROGERS, FRANK WOLF, JIM COLBE, JAMES T. WALSH, JOE KNOLLENBERG, JOHN P. MURTHA, NITA M. LOWEY, CHET EDWARDS, MANAGERS ON THE PART OF THE HOUSE.

TED STEVENS, THAD COCHRAN, ARLEN SPECTER, PETE DOMENICI, MITCHELL BOND, MITCH MCCONNELL, SPIEGEL RICHARD C. SHELBY, JUDD GREGG, ROBERT F. BENT, BEN NIGHTHORSE, CAMPBELL, LARRY CRAIG, KAY BAILEY HUTCHISON, MIKE DEWINE, SAM BROWNBACK, DANIEL R. INOUE, ERNEST P. HOLLINGS, PATRICK J. LEAHY, HARRY REID, PATTY MURRAY, HARRY REID, (EXCEPT TITLE II), TOM HARKIN, (EXCEPT TITLE II), BARBARA A. MUKULSKI, (EXCEPT TITLE II), [IN THOUSANDS OF DOLLARS]

Military Personnel:

(1) The Office of Inspector General shall terminate 6 months after the authorities and duties specified in other sections of this Act, but due to the deployment of both parents while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

This Act may be cited as the “Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.”

And the Senate agree to the same.

BILL YOUNG, ERNEST P. HOLLINGS, TOM HARKIN, MIKE DEWINE, SAM BROWNBACK, BEN NIGHTHORSE, ROBERT F. BENNETT, CHET EDWARDS, NITA M. LOWEY, MITCH MCCONNELL, BILL YOUNG, JERRY LEWIS, MAL ROGERS, FRANK WOLF, JIM COLBE, JAMES T. WALSH, JOE KNOLLENBERG, JOHN P. MURTHA, NITA M. LOWEY, CHET EDWARDS, MANAGERS ON THE PART OF THE HOUSE.

TED STEVENS, THAD COCHRAN, ARLEN SPECTER, PETE DOMENICI, MITCHELL BOND, MITCH MCCONNELL, SPIEGEL RICHARD C. SHELBY, JUDD GREGG, ROBERT F. BENT, BEN NIGHTHORSE, CAMPBELL, LARRY CRAIG, KAY BAILEY HUTCHISON, MIKE DEWINE, SAM BROWNBACK, DANIEL R. INOUE, ERNEST P. HOLLINGS, PATRICK J. LEAHY, HARRY REID, PATTY MURRAY, HARRY REID, (EXCEPT TITLE II), TOM HARKIN, (EXCEPT TITLE II), BARBARA A. MUKULSKI, (EXCEPT TITLE II), [IN THOUSANDS OF DOLLARS]
### Fiscal Year 2004 Appropriations Reporting Requirements

The conferees agree with the House report on this subject, except that the comprehensive financial analysis and update for fiscal year 2004 should be submitted to the congressional defense committees on or after October 30, 2003.

### Classified Programs

Recommended adjustments to classified programs are addressed in a classified annex accompanying this conference report.

### Military Personnel

The conference agreement recommends $17,612,800,000 for the military personnel accounts, the amount proposed by the President's request and the Senate, instead of $17,142,860,000 as proposed by the House. The conferees’ recommendation will fund increased mental costs of pays and allowances for active duty and Reserve personnel deployed in support of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle through the end of fiscal year 2004.

The conferees do not agree to transfer $670,000,000 from the military personnel accounts, the amount proposed by the House, to Operation and Maintenance, Army, as proposed by the House, to support contracting arrangements for civilian security guards to replace Reserve component soldiers who are currently performing security duty for Army installations.

### Operation and Maintenance

The conference agreement recommends $39,231,223,000 for the Operation and Maintenance accounts, instead of $39,879,623,000 as proposed by the Senate. Adjustments to the Operation and Maintenance accounts are shown below:

<table>
<thead>
<tr>
<th>Program</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>DOD Operations Support Costs</td>
<td>$360,000</td>
<td>$360,000</td>
<td>$360,000</td>
</tr>
<tr>
<td>Excess Support to Key Cooperating Nations</td>
<td>$200,000</td>
<td>$200,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>AAFES Support for Deployed Forces</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Rest and Recuperation Travel

The conferees recommend that of the funds provided in Operation and Maintenance, Army, $35,000,000 be used only for covering the travel costs of troops on rest and recuperation leave. Specifically, these funds shall be used to cover any additional costs incurred by troops returning from the Iraq or Afghanistan theaters to reach their home of record (in the United States), or its territories and commonwealths from established disembarkation points in the United States. Department officials may use these funds to cover troop travel costs from established disembarkation points to places other than their home of record in a manner consistent with current Department of Defense travel regulations and guidelines. Further, the conferees agree that, to the maximum extent practicable, the commercial airline industry should charge Armed Forces members and their families the lowest available fares for air travel in connection with rest and recuperation leave.

### Family Advocacy Program

The conferees recommend that of the funds provided in Operation and Maintenance, Defense-Wide, $32,000,000 be used only for the Family Advocacy Program to address war-time community needs such as family counseling, domestic violence training and prevention programs, and readjustment counseling for military personnel.

### National Guard Family Readiness Program

The conferees recommend that of the funds provided in the Iraq Freedom Fund, $10,000,000 shall be used only for the National Guard Readiness Program of the National Guard, which provides information, referral and outreach assistance to military families during the deployment process.

### Procurement

The conference agreement recommends $5,534,704,000 for the Procurement accounts, instead of $5,621,304,000 as proposed by the House and $5,455,304,000 as proposed by the Senate.

Recommendations for the Procurement accounts are shown below:

<table>
<thead>
<tr>
<th>Program</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Missile Procurement, Army</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weapons, Tracked Combat Vehicles, Army</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Logistics Support Equipment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Procurement, Army</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Army</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Navy</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Air Force</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Defense-Wide</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, DOD</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, ESA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Camp Housing Units</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Mobile Search Devices</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Language Service Transaction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Procurement, Other</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Other Department of Defense Programs

<table>
<thead>
<tr>
<th>Program</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense Health Program</td>
<td>658,380</td>
<td>658,380</td>
<td>658,380</td>
</tr>
<tr>
<td>Drug Interdiction &amp; Counter-Drug Activities, Defense</td>
<td>71,000</td>
<td>71,000</td>
<td>71,000</td>
</tr>
<tr>
<td>Total Other</td>
<td>731,380</td>
<td>731,380</td>
<td>731,380</td>
</tr>
</tbody>
</table>

### Revolving and Management Funds

<table>
<thead>
<tr>
<th>Program</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense Working Capital Fund</td>
<td>600,000</td>
<td>600,000</td>
<td>600,000</td>
</tr>
<tr>
<td>National Defense Sealift Fund</td>
<td>24,000</td>
<td>24,000</td>
<td>24,000</td>
</tr>
<tr>
<td>Total Revolving &amp; Management Funds</td>
<td>624,000</td>
<td>624,000</td>
<td>624,000</td>
</tr>
</tbody>
</table>

### Related Agencies

<table>
<thead>
<tr>
<th>Program</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intelligence Community Management Account</td>
<td>21,500</td>
<td>21,500</td>
<td>21,500</td>
</tr>
<tr>
<td>General Provisions</td>
<td></td>
<td></td>
<td>413,300</td>
</tr>
<tr>
<td>Storm Damage (Sec. 1129)</td>
<td></td>
<td></td>
<td>313,000</td>
</tr>
<tr>
<td>Munitions Security and Destruction (Sec. 1121)</td>
<td></td>
<td></td>
<td>100,000</td>
</tr>
<tr>
<td>Grand Total Chapter 1</td>
<td>65,147,554</td>
<td>64,702,854</td>
<td>65,147,554</td>
</tr>
</tbody>
</table>

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<th>House</th>
<th>Senate</th>
<th>Conference</th>
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<td>$360,000</td>
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<tr>
<td>Excess Support to Key Cooperating Nations</td>
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<td>$200,000</td>
<td>$200,000</td>
</tr>
<tr>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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Recommendations for the Procurement accounts are shown below:
### Up-Armed HMMWVs

The conferees recommend a total of $239,300,000 for Up-armed HMMWVs and associated equipment to support requirements in Iraq. This amount includes $177,200,000 for classified equipment and $62,100,000 from the Iraqi Freedom Fund. The conferees agree that this amount made available in the Iraqi Freedom Fund, along with $177,200,000 in associated equipment to support requirements shown below:

<table>
<thead>
<tr>
<th>Equipment</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Light Armored Vehicle (LAV)</td>
<td>9,000</td>
<td>9,000</td>
<td>9,000</td>
</tr>
<tr>
<td>MK110 Light Armored Vehicle (LAV)</td>
<td>13,000</td>
<td>13,000</td>
<td>13,000</td>
</tr>
<tr>
<td>M88A2 Recovery Vehicle</td>
<td>8,300</td>
<td>8,300</td>
<td>8,300</td>
</tr>
<tr>
<td>M1A1 Light Armored Vehicle (LAV)</td>
<td>11,100</td>
<td>11,100</td>
<td>11,100</td>
</tr>
<tr>
<td>Light Armored Vehicle</td>
<td>23,900</td>
<td>23,900</td>
<td>23,900</td>
</tr>
<tr>
<td>Aircrew Reliability, Maintainability Upgrade</td>
<td>76,197</td>
<td>76,197</td>
<td>76,197</td>
</tr>
</tbody>
</table>

### Equipment Shortages

The conferees note that, despite recent efforts by the Department of Defense to address equipment shortages, many individuals and units in the active and reserve forces continue to experience shortages in equipment that would enhance both survivability and mission effectiveness. The conferees believe that it must be the Secretary of Defense's highest priority to eliminate such shortages. Accordingly, the conferees encourage the Secretary of Defense to apply additional funds provided in this Act for the most pressing needs. The conferees also direct the Secretary of Defense to submit quarterly update reports to the congressional defense committees, starting December 31, 2003 through December 31, 2004, to identify significant soldier equipment, weapon system, or spare parts shortages in Iraq and Afghanistan theaters of operation for all major active and reserve component units. These updates are to present the solutions and timetables for procuring and distributing equipment and parts to address any identified shortages.

### RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The conference agreement recommends $333,887,000 for the Research, Development, Test and Evaluation accounts, instead of $288,887,000 as proposed by the House and $338,887,000 as proposed by the Senate. Recommendations for the Research, Development, Test and Evaluation accounts are shown below:

<table>
<thead>
<tr>
<th>Account</th>
<th>House</th>
<th>Senate</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total, Research, Development, Test and Evaluation</td>
<td>268,887</td>
<td>333,887</td>
<td>333,887</td>
</tr>
</tbody>
</table>

### GENERAL PROVISIONS—THIS CHAPTER

The conferees agree to retain and amend section 1101, as proposed by the House, which provides the Secretary of Defense with $3 billion in additional transfer authority, only for funds in this chapter. The Senate included similar language.
The conferees agree to retain section 1102, as proposed by the House, which provides funds appropriated in this Act for operation and maintenance for the Commander's Emergency Response Program for military commanders to respond to urgent humanitarian needs in Iraq and Afghanistan.

The conferees agree to retain section 1103, as proposed by the House, which exempts Secretary of Defense to provide a description of an Alternative for replacing Air Force KC-135 aircraft.

The conferees agree to retain section 1112, as proposed by the Senate, which provides funds appropriated in this Act to alter command responsibility or permanent assignment of forces until 270 days after notification to the congressional defense committees.

The conferees agree to retain and amend section 1113, as proposed by the Senate, which prohibits use of funds in this Act to expand the time period a Reservist would be eligible for unemployment compensation or not eligible for health care benefits under an employer-sponsored health benefit plan.

The conferees agree to retain and amend section 1114, as proposed by the Senate, which amends and expands the Alternative Reservist program to provide medical or dental screening or care at no cost for all members of the Ready Reserve who are ordered to active duty.

The conferees agree to retain and amend section 1115, as proposed by the Senate, which provides the TRICARE benefit to inactive Reservists and their family members, if they qualify for unemployment compensation or are not eligible for health care benefits under an employer-sponsored health benefit plan.

The conferees agree to retain and amend section 1116, as proposed by the Senate, which amends section 1074 of title 10, U.S.C., to expand the Alternative Reservist program to be considered to be on active duty for the purpose of TRICARE eligibility.

The conferees agree to retain and amend section 1117, as proposed by the Senate, which amends the Transition Assistance Medical Program (TAMP) benefit program from 60 days to 180 days beginning on the date on which the member is separated from active duty.

The conferees agree to retain section 1118, as proposed by the Senate, which provides funding appropriated for fiscal year 2004. The conferees are aware that the Department of Homeland Security has begun research and development on Man-Portable Air Defense Systems (MANPADS) countermeasures for commercial airliners pursuant to the "Program Plan for the Development of an Antimissile Device for Commercial Aircraft" approved by the NATO Standing Group for Science and Technology. Upon the completion of research and development, the Department of Homeland Security should consider aircraft equipped with the Emergency Preparedness and Response Directorate to work expeditiously with the Boeing of Philadelphia, Pennsylvania, and the National Energy Technology Laboratory to remediate the problem where high gas readings due to the over 600 abandoned gas wells force the evacuation of residents and businesses in rural areas.

The conferees agree to provide an additional $500,000,000 for disaster relief activities associated with recently declared disasters, such as Hurricane Isabel and the California wildfires.

The conferees agree to provide an additional $23,183,000 for "Operating Expenses" to repair damages the Coast Guard incurred during Hurricane Isabel.

As a result of the United States’ commitment to fighting the Global War on Terrorism, there has been an increase in operational requirements in the Central Command’s area of responsibility. The footprint...
of American military forces has expanded to include the construction and management of military facilities in overseas locations to house service members and to stage operational resources. The conferees direct the Central Command to report to the congressional defense and military construction subcommittees, in both classified and unclassified form, on its master plan for facilities in the Central Command area of responsibility, including the operational requirements and the planned disposition of equipment, aircraft and personnel, no later than December 1, 2003.

**MILITARY CONSTRUCTION, ARMY**

The conference agreement appropriates $102,100,000 for Military Construction, Army, instead of $185,100,000 as proposed by the House and $119,900,000 as proposed by the Senate. Of the funds appropriated, $119,900,000 is provided to finance projects required to support the Global War on Terrorism and Operation Iraqi Freedom as follows:

<table>
<thead>
<tr>
<th>Location/Facility</th>
<th>Project description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Al Falloq (IRQ)</td>
<td>Power Plant and Electrical Distribution</td>
<td>$8,000,000</td>
</tr>
<tr>
<td>Baghdad—Victory Base</td>
<td>Electrical Power</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>Baghdad FOB Falcons</td>
<td>Power Plant and Electrical Distribution</td>
<td>$7,000,000</td>
</tr>
<tr>
<td>Balad Airfield</td>
<td>Power Plant and Electrical Distribution</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>Balad Airfield</td>
<td>Base Camp Water Treatment Plant</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Baghdad—Victory Base</td>
<td>Power Plant</td>
<td>$15,000,000</td>
</tr>
<tr>
<td>Baghdad—Radwana Palace Complex</td>
<td>Support Services Departmental Facility</td>
<td>$10,000,000</td>
</tr>
<tr>
<td>Baghdad—Radwana Palace Complex</td>
<td>Joint Operations Center</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Baghdad—Radwana Palace Complex</td>
<td>Training Facility</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Taj Military Complex</td>
<td>Power Plant and Electrical Distribution</td>
<td>$16,000,000</td>
</tr>
<tr>
<td>TIK—Camp Speicher</td>
<td>Power Plant and Electrical Distribution</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Total</td>
<td>Planning and Design</td>
<td>$2,400,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$119,900,000</td>
</tr>
</tbody>
</table>

An additional $42,200,000 is provided to repair facilities damaged by Hurricane Isabel at Fort Monroe, Virginia. As proposed by the House, the conferees agree to include bill language that authorizes the use of funds for planning and design and for construction. The conferees recommend a reduction of $23,000,000 from the amount proposed by the House, to reduce the minor construction funds because the request was not explained in sufficient detail to justify the appropriation.

**MILITARY CONSTRUCTION, NAVY**

As proposed by the House, the conference agreement appropriates $45,530,000 for Mili
tary Construction, Navy, to repair two Naval facilities damaged by Hurricane Isabel. The Senate bill provides for a similar provision.

**MILITARY CONSTRUCTION, AIR FORCE**

As proposed by the House and the Senate, the conference agreement appropriates $292,550,000 for Military Construction, Air Force, to finance various projects around the world in support of the Global War on Terrorism and Operation Iraqi Freedom. As proposed by the House, the conferees agree to include bill language that authorizes the use of funds for planning and design and for construction.

**FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY**

The conference agreement appropriates $11,420,000 for Family Housing Operation and Maintenance, Army, instead of $8,151,000 as proposed by the House. The Senate bill contained no similar provision. These funds are provided for storm related damage caused by Hurricane Isabel at Langley AFB, Virginia.

**GENERAL PROVISION—THIS CHAPTER**

The conference agreement includes one general provision, section 1303, as proposed by the House and modified by the Senate. This provision gives the Secretary of Defense authority to use up to $150,000,000 in operation and maintenance funds for construction projects to support Operation Iraqi Freedom or the Global War on Terrorism. The purpose of the provision is to provide troops in the field flexibility to construct emergency projects using operation and maintenance funds. The provision requires DOD to submit a quarterly report that describes the project, includes supporting documentation, and provides the amount of funds obligated for the purposes. The Senate modification requires DOD to provide Congress with notification of the project 15 days after obligation of funds.

**EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE**

The conference agreement includes $43,900,000 under this account as proposed by the House, instead of no funds as proposed by the Senate. The conference agreement includes $50,000,000 for anticipated costs of terrorism rewards, and includes language that allows funds under this account to be transferred to, and merged with, the Diplomatic and Consular Programs account to maintain funding levels for the fiscal year 2004 Border Security program. The conference agreement also includes $65,500,000 for costs associated with the procurement of foreign missions and embassies in New York City, as well as security and protection costs associated with the 2003 Free Trade in the Americas Ministerial and the 2004 Summit of the Industrialized Nations. In addition, the conference agreement includes language allowing the use of prior year funds under this heading for rewards for an individual conviction under the Special Court for Sierra Leone, who has been charged by the Special Court with being "most responsible" for the atrocities committed during Sierra Leone's civil war, is not yet in the custody of the Special Court. The conference directs the Department to use all available funds to pay the handover of this indictee of the Special Court.

**INTERNATIONAL ORGANIZATIONS**

The conference agreement includes $245,000,000 for assessed costs of United Nations peacekeeping in Liberia as proposed in the House bill, instead of no funds as proposed by the Senate.
The conference agreement includes $40,000,000 under this heading as proposed by the House, instead of no funds as proposed by the Senate. The amount provided in the conference agreement shall be only for the initiation of Middle East Television Network broadcasting to Iraq.

Chapter 2. Bilateral Economic Assistance Funds Appropriated to the President Operating Expenses of the United States Agency for International Development

The conference report recommends $40,000,000 for “Operating Expenses of the United States Agency for International Development”, which includes $1,900,000,000 for the United States Agency for International Development (USAID), Office of Inspector General. The amount for Operating Expenses is the same as the House and Senate levels. The level for the Office of Inspector General is $2,100,000 less than the Senate bill; the House did not address this matter. The managers have included language reserving these funds for support of relief and reconstruction in Afghanistan, including short-term costs associated with facilities required by the USAID in the existing embassy compound or in Department of Defense facilities elsewhere in Kabul until an interim, secure compound adjacent to the embassy is available. It is the managers’ intention that embassy facilities and vehicles funded by USAID be used primarily by USAID personnel, and be available for other agencies only with the prior written concurrence of the USAID mission director in Kabul and, when feasible, on a reimbursable basis.

Should United States military air transport remain scarce or unavailable to support reconstruction in Afghanistan, and to the extent required by security conditions in the field, a portion of this appropriation may be used for dedicated contract air service within Afghanistan and access to neighboring countries. The managers expect the Department of State Coordinator for Afghan Assistance and USAID to consult with the Committees prior to obligating funds for this purpose.

The conference report provides for operating expenses of USAID in Iraq elsewhere in this chapter.

Capital Investment Fund

The conference report recommends $16,600,000 for the Capital Investment Fund of the United States Agency for International Development to remain available until expended, instead of $60,000,000 as proposed by the Senate. The House bill did not address this matter.

The conference has provided full funding for an interim secure facility in Kabul, Afghanistan, primarily for the use of United States Agency for International Development, Department of State, and other federal agencies that are implementing and evaluating United States reconstruction and security assistance for Afghanistan.

The conference agreement includes language requiring the Administrator of the United States Agency for International Development to assess fair and reasonable rental payments for the use of space by employees of other United States Government agencies in buildings constructed using funds appropriated under this heading, and provides that such rental payments shall be deposited into this account as an offsetting collection. Such rental payments shall be available for obligation only pursuant to the regular reprogramming notification procedures of the Committees on Appropriations.

IraQ Relief and Reconstruction Fund (Including Transfers of Funds)

The conference report recommends $18,669,000,000, to remain available until September 30, 2006, for the “Iraq Relief and Reconstruction Fund” (the Fund), the same level as recommended by the House and $200,000,000 above the Senate. This figure represents a reduction of $1,655,000,000 below the request and an increase of $16,174,000,000 above the level provided in the fiscal year 2003 Emergency Wartime Supplemental Appropriations Act when this account was created. The supplemental request proposed an appropriation of $20,304,000,000 to remain available until expended.

The conference report provides $1,900,000,000 for the oil infrastructure and investment fund instead of $2,100,000,000 as proposed by the House and $1,900,000,000 as proposed by the Senate.

The following table provides amounts for functional categories and programs within categories. The total amount for these functional categories is reflected in the bill language as proposed by both the House and Senate. The following table provides the baseline for the financial plan required in section 2007 of this Act.

<table>
<thead>
<tr>
<th>Category and description</th>
<th>Supplemental request</th>
<th>Conference agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Security and law enforcement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Police training and technical assistance</td>
<td>950</td>
<td>950</td>
</tr>
<tr>
<td>Traffic police</td>
<td>90</td>
<td>150</td>
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<tr>
<td>Facilities Protection Services</td>
<td>67</td>
<td>67</td>
</tr>
<tr>
<td>Subtotal, Law enforcement</td>
<td>1,217</td>
<td>1,167</td>
</tr>
<tr>
<td>Establishment of the New Iraqi Army (NIA)</td>
<td>2,000</td>
<td>2,000</td>
</tr>
<tr>
<td>(NIA Facilities)</td>
<td>(745)</td>
<td>(745)</td>
</tr>
<tr>
<td>(NIA Equipment)</td>
<td>(879)</td>
<td>(879)</td>
</tr>
<tr>
<td>Subtotal, NIA</td>
<td>(1,624)</td>
<td>(1,624)</td>
</tr>
<tr>
<td>Iraqi Civil Defense Corps (Operations and Personnel)</td>
<td>76</td>
<td>76</td>
</tr>
<tr>
<td>Network infrastructure</td>
<td>(58.4)</td>
<td>(58.4)</td>
</tr>
<tr>
<td>Equipment</td>
<td>(17.2)</td>
<td>(17.2)</td>
</tr>
<tr>
<td>Subtotal, National Security</td>
<td>2,074</td>
<td>2,074</td>
</tr>
<tr>
<td>Total, Security and Law Enforcement</td>
<td>3,293</td>
<td>3,243</td>
</tr>
<tr>
<td>Justice, Public Safety Infrastructure and Civil Society</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Witness Protection Program</td>
<td>109</td>
<td>75</td>
</tr>
<tr>
<td>Other technical investigative methods</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Penal facilities</td>
<td>400</td>
<td>400</td>
</tr>
<tr>
<td>Reconstruction and modernization of detention facilities</td>
<td>109</td>
<td>109</td>
</tr>
<tr>
<td>Facilities protection, mine removal, fire service, and public safety facility and equipment repairs</td>
<td>500</td>
<td>400</td>
</tr>
<tr>
<td>Demining</td>
<td>(621)</td>
<td>(621)</td>
</tr>
<tr>
<td>Public safety training and facilities</td>
<td>274</td>
<td>199</td>
</tr>
<tr>
<td>National Security Communications Network</td>
<td>150</td>
<td>90</td>
</tr>
<tr>
<td>Investigations of crimes against humanity</td>
<td>100</td>
<td>75</td>
</tr>
<tr>
<td>Judicial security and facilities</td>
<td>200</td>
<td>150</td>
</tr>
<tr>
<td>Democracy building activities</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>United States Institute of Peace</td>
<td></td>
<td>10</td>
</tr>
<tr>
<td>Subtotal, Justice, Public Safety Infrastructure and Civil Society</td>
<td>1,843</td>
<td>1,318</td>
</tr>
<tr>
<td>Electric Sector</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Generation</td>
<td>2,900</td>
<td>2,810</td>
</tr>
<tr>
<td>Transmission</td>
<td>1,550</td>
<td>1,550</td>
</tr>
<tr>
<td>Network infrastructure</td>
<td>1,000</td>
<td>1,000</td>
</tr>
<tr>
<td>Automated monitoring and control system</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>Institutional strengthening</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Security</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Subtotal, Electric Sector</td>
<td>5,674</td>
<td>5,560</td>
</tr>
<tr>
<td>Oil Infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infrastructure</td>
<td>1,200</td>
<td>1,200</td>
</tr>
<tr>
<td>Emergency supplies of refined petroleum products</td>
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</tr>
<tr>
<td>Total, Oil Infrastructure</td>
<td>2,899</td>
<td>2,899</td>
</tr>
</tbody>
</table>

H10152

CONGRESSIONAL RECORD—HOUSE

October 30, 2003
The table above indicates programs that were supported in the House and Senate and those that raised questions and concerns and were reduced or eliminated, such as the procurement of trash trucks, development of business courses, 
zip code and 911 projects, and the construction of two prisons for $400,000,000 at $50,000 per bed.
The conference report includes bill language, as proposed by the House that allows, but limits reallocations between functional categories, so that any category can be reduced by not more than 10 percent or increased by more than 20 percent. Acknowledging the unique circumstances in Iraq, the conference report includes language that the President may increase one such allocation by up to an additional 20 percent in the event of unforeseen or emergency circumstances. Transfers between programs, project, and activities in the table above, if necessary, would be made subject to the standard notification procedures of the Committees on Appropriations. The conference report specifies agencies that may receive appropriations from the Iraq Relief and Reconstruction Fund but not included in the supplemental request, which specifies agencies that may receive apportionment from the Fund. Concerns with previous language, the conference report again lists the Department of Defense, the Department of Health and Human Services, the Department of State, the Department of Treasury, and the United States Agency for International Development. The managers have added Coalition Provisional Authority (CPA) to this list, and allow the CPA to receive direct apportionment of IRRF funds for the first time, with the understanding that the CPA establishes a Chief Financial Officer operating in cooperation with the responsibilities and functions specified in the Chief Financial Officer Act.

The conference report includes bill language, similar to that in the Senate bill, that requires the Administrator of the CPA to seek

<table>
<thead>
<tr>
<th>Category and description</th>
<th>Supplemental request</th>
<th>Conference agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing construction</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Public buildings construction and repair</td>
<td>130</td>
<td>130</td>
</tr>
<tr>
<td>Roads and bridges</td>
<td>240</td>
<td>240</td>
</tr>
<tr>
<td>Total, Roads, Bridges, and Construction</td>
<td>470</td>
<td>370</td>
</tr>
<tr>
<td>Health care</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nationwide hospital and clinic improvements</td>
<td>393</td>
<td>493</td>
</tr>
<tr>
<td>Equipment procurement and modernization</td>
<td>302</td>
<td>300</td>
</tr>
<tr>
<td>Initiate 700m Basrah hospital project</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>Health care partnerships</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Total, Health Care</td>
<td>850</td>
<td>793</td>
</tr>
<tr>
<td>Private Sector Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>American-Iraq Enterprise Fund</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>Expanded network of Employment Centers</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Training</td>
<td>145</td>
<td>100</td>
</tr>
<tr>
<td>Micro-Small-Medium Enterprises</td>
<td>45</td>
<td>45</td>
</tr>
<tr>
<td>Total, Private Sector Development</td>
<td>353</td>
<td>353</td>
</tr>
<tr>
<td>Education, Refugees, Human Rights, Democracy, and Governance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Migration and refugee assistance</td>
<td>105</td>
<td>105</td>
</tr>
<tr>
<td>Local Information Centers</td>
<td>90</td>
<td>90</td>
</tr>
<tr>
<td>Property Claims Tribunal</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Banking system modernizations</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Business training courses</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Human rights</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>Civic programs</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Total, Education, Refugees, Human Rights, and Governance</td>
<td>300</td>
<td>300</td>
</tr>
<tr>
<td>Total, Iraq Relief and Reconstruction Fund</td>
<td>20,304</td>
<td>18,649</td>
</tr>
</tbody>
</table>
to ensure that programs in Iraq comply with the “Policy Paper: Disability.”

The conference agreement includes a provision, similar to one in P.L. 108-118, which requires assistance to be made available to Iraqi citizens who have suffered losses as a result of military operations. The managers support medical, rehabilitation, shelter, microfinance, and other assistance to these individuals and expect all relevant agencies and organizations to coordinate efforts in providing this assistance.

The conference agreement provides for $10,000,000 for the ongoing operating costs of USAID and $6,000,000 for the State Department Bureau of International Narcotics Control and Law Enforcement. The conference expects the transfer of $210,000,000 to support other high priority foreign assistance programs, and endorse Senate report language on the use of these funds, and believe that elections are crucial for ensuring accountable reconstruction activities in Iraq. Therefore, this recommendation provides for the first time a direct operating appropriation for the CPA, and, under the Iraq Relief and Reconstruction Fund, the organization is given the authority to receive direct apportionment of program/project funds. The conference expects that the Office of Management and Budget will transmit to the Congress a written report on operating expenses by May 1, 2003, a budget justification for this new Operating Expenses account, including information required by the Comprehensive Authority to Receive Direct Appropriations Act of 2002, which includes bill language in the Iraq Relief and Reconstruction Fund section of this report, including information required by the Comprehensive Authority to Receive Direct Appropriations Act of 2002.

The conference report recommends an additional $70,000,000 for support to the Government of Afghanistan (GoA). Of the recommended $70,000,000, not less than $25,000,000 will meet key GoA infrastructure needs, especially telecommunications between Kabul and the provinces. The Ministry of Finance will use none of the $70,000,000 to improve customs collections at Afghanistan’s 11 official border posts and remitting of customs to the ministry on a timely basis. These funds are expected to support market centers, industrial parks, land titling, natural resource assessment and power generation projects. The conference agreement does not include $10,000,000 for a venture capital fund.

The conference agreement includes bill language providing $10,000,000 for democracy and governance efforts in Afghanistan. The conferees commend those engaged in the challenging project to reconstruct and pave the major Kabul-Kandahar road by the end of 2003, recognize the dire security threat from the Taliban forces in this area, and urge United States Armed Forces in Afghanistan to increase surveillance of the construction areas and support for the private and commercial projects necessary to protect the road. The additional funding will sustain the momentum of the Kabul-Kandahar project, by financing security and certain, primarily in the previously neglected southern and central regions.

The conference report provides an additional $95,000,000 for schools and education in Afghanistan, $55,000,000 above the request, and $95,000,000 for private sector development and power generation projects. The conference agreement does not include $10,000,000 for a venture capital fund. The conference agreement provides $65,000,000 to repair, rehabilitate and procure electric generation and distribution infrastructure in Afghanistan. In addition to the power requirements of Kabul already requested, the conference report has included additional funds for the Kajaki dam facility that is essential to successful reconstruction in the politically sensitive Kandahar and Helmand provinces.

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The conference report recommends $872,000,000 for the “Economic Support Fund” as proposed by the House, instead of $821,000,000 as proposed by the Senate, primarily for reconstruction in Afghanistan. These funds would remain available for obligation until December 31, 2004.

The conference report recommends $572,000,000 for accelerated assistance for Afghanistan. The managers note the increasing terrorist activity against the Government of Afghanistan, international and non-governmental organizations providing relief and reconstruction assistance within Afghanistan, and concludes that the pace of reconstruction, as well as that of security assistance provided elsewhere in this chapter, must respond to the tenuous security conditions, especially in the southern and eastern provinces.

The conference recognizes that further expansion of the mandate of the International Security Assistance Force (ISAF) can help improve the security environment in Afghanistan, and strongly encourage the Administration to support such expansion of ISAF.

The conferees fully support most of the urgent programs included in the budget justification for Afghan civil reconstruction, including roads, education, health, water, electricity, reconstruction contracts, and provincial reconstruction teams. The conference agreement provides $60,000,000 for Afghan women and girls to ensure that programs, projects and activities funded in this Act include the participation of women and advance the social, economic, political, cultural, and civil rights, and opportunities for women in Afghanistan.

The State Department Coordinator of Assistance to Afghanistan and the Administrator of USAID are requested to provide the Committee not later than December 15, 2003, a fiscal year 2004 strategic and financial plan for all USAID, bilateral, and project operations and activities in Afghanistan. The State Department Coordinator of Assistance to Afghanistan and the Administrator of USAID are requested to provide the Committee not later than December 15, 2003, a fiscal year 2004 strategic and financial plan for all USAID, bilateral, and project operations and activities in Afghanistan.
Taliban. Women were severely affected by their inability during those times to participate in local and national governance. The conferees have agreed to provide $60,000,000 for technical and vocational education programs for women and girls against sexual abuse and trafficking, shelters for women and girls, humanitarian assistance for widows, internally-led NGOs, and to disseminate information about the rights of women, and to provide women’s rights training to military, police and legal personnel. 

All proposals must be subject to the regular notification procedures of the Committees on Appropriations.

The managers believe that Japan and other donors will make additional contributions to DDR projects if the pilot effort is a success and is replicable in other regions.

The managers also recommend that $23,000,000, not included in the request, be provided for water projects in Afghanistan. Because of the essential role of irrigation in agriculture, and the lack of potable water in many urban areas, the managers request USAID to report not later than January 15, 2004 on the feasibility of expanding rural and urban water projects in Afghanistan.

The managers take note of the outstanding jobs that the men and women of USAID, the Departments of Defense and State and other government organizations are implementing in Kabul and Afghanistan’s reconstruction have accomplished under the most difficult of circumstances.

As the cooperation of the Government of Pakistan is vital to United States and Coalition efforts to build a stable Afghanistan, the conference agreement includes language proposed by the President to allow up to $200,000,000 in the Economic Support Fund to be made available for the subsidy cost of modifying direct loans and guarantees previously issued for Pakistan. The conference agreement is subject to a determination by the President that the Government of Pakistan is cooperating with the United States in the global war on terrorism.

The conference agreement also provides for the transfer to the Economic Support Fund from the Iraq Relief and Reconstruction Fund of $100,000,000 for assistance for J. ordan.

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE (INCLUDING TRANSFERS OF FUNDS)

The conference report recommends $110,000,000 for International Disaster and Famine Assistance for Liberia and Sudan, instead of $100,000,000 as proposed by the House or $200,000,000 under the heading “Emergency Fund for Complex Foreign Crises” as proposed by the Senate.

The managers are very concerned about the humanitarian crisis in Liberia, where approximately 200,000 refugees and internally displaced persons are living in dire conditions. The managers have provided $200,000,000 in “International Disaster and Famine Assistance” to bolster these efforts. Of this amount, $100,000,000 is made available by transfer from the “Iraq Relief and Reconstruction Fund”.

The managers are aware of the important developments that have occurred in Sudan in an attempt to end more than 20 years of civil war. The conference agreement provides $20,000,000 in “International Disaster and Famine Assistance” to assist in this situation. Of this amount, $10,000,000 is made available by transfer from the “Iraq Relief and Reconstruction Fund”.

As other funds are available to respond to natural disasters abroad, the conference agreement limits the circumstances under which these funds may be obligated to those circumstances where the United States response to a complex foreign crisis is in the national interest and essential to efforts to reduce international terrorism.

The conference agreement includes a provision authorizing the transfer of up to one half of one percent of certain other funds to this account. All proposed obligations made available to fund this account are subject to the regular notification procedures of the Committees on Appropriations.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The conference agreement recommends $270,000,000 for “International Narcotics Control and Law Enforcement Fund” as originally provided by the House instead of $200,000,000 as proposed by the Senate, for accelerated assistance for Afghanistan. These funds would remain available for obligation until December 31, 2004.

The managers are gravely concerned about the increasing threat to the United States by the Government of Afghanistan and private non-governmental organizations providing relief and reconstruction assistance within Afghanistan. The capacity of security forces to protect their own government and international reconstruction efforts must be expanded as rapidly as feasible, and the increased funding responds to that urgent requirement.

The managers note the leadership role of Germany, the United Kingdom and Italy in the police training, counter-narcotics and judicial reform sectors, respectively, and encourage each of these Coalition members to accelerate its assistance efforts in Afghanistan.

In order to respond to this rapidly evolving situation, the conference agreement provides $35,000,000 for “Nonproliferation, Anti-Terrorism, Demining, and Related Programs” as proposed by both the Senate and the House. This level would support anti-terrorism training programs and equipment needs in Afghanistan, to continue the work of disarmament of the staggering number of mines throughout the country, and to provide in-country support for the protection of Afghan President Karzai.

The conference report includes $287,000,000 for the “Foreign Military Financing Program”, instead of $222,000,000 as proposed by the Senate and $207 million as proposed by the House, for accelerated security assistance on a non-repayable basis for Afghanistan. These funds would remain available for obligation until September 30, 2004. The rapid training and deployment of an ethically balanced, professional national army for Afghanistan is essential to the success of efforts to promote a stable and peaceful Afghanistan.

The managers encourage the President, the Secretary of Defense to continue to remind the Government of Afghanistan that United States military assistance is provided to build a new Afghan national army that is ethnically and religiously diverse, and loyal to the civilian leadership in the central government. Failure of the Government of Afghanistan to continue moving forward with this goal should not be rewarded with continuing military assistance by any agency of the United States Government to armed militias or army units that do not meet these conditions.

To this end, the managers request the Secretary of State, in consultation with the
the managers recognize that debt incurred under the Saddam Hussein regime presents a potential challenge to the country’s development. For the purposes of this conference, the term “limitation” means a ceiling on, or an annual reduction of, the obligation of funds under the heading “Operation Iraqi Freedom” or the heading “Operation Enduring Freedom” that would support multilateral peacekeeping operations in Iraq and Afghanistan.

Both the House and Senate bills included a number of provisions intended to require greater adherence to full and open competition. The conference report includes language to limit the use of non-competitive contracts in Iraq. The conference report includes language to permit the President to enter into agreements with an entity other than a host government or international organization to provide assistance to Iraq. The conference report includes language that modifies the current policy of the United States to ensure that any assistance to Iraq is consistent with the dual-track process for determining the appropriate level of assistance to Iraq.

The conference report includes a new general provision, section 2207, that is similar to the provision in section 2204 extending the financial plan for another year. With regard to the export of lethal military equipment, the managers expect that non-lethal military equipment will continue to be sold to Iraq.

The conference report includes language to permit the President to enter into agreements with an entity other than a host government or international organization to provide assistance to Iraq. The conference report includes language that modifies the current policy of the United States to ensure that any assistance to Iraq is consistent with the dual-track process for determining the appropriate level of assistance to Iraq. The conference report includes language that modifies the current policy of the United States to ensure that any assistance to Iraq is consistent with the dual-track process for determining the appropriate level of assistance to Iraq.

The conference report includes language to permit the President to enter into agreements with an entity other than a host government or international organization to provide assistance to Iraq. The conference report includes language that modifies the current policy of the United States to ensure that any assistance to Iraq is consistent with the dual-track process for determining the appropriate level of assistance to Iraq. The conference report includes language that modifies the current policy of the United States to ensure that any assistance to Iraq is consistent with the dual-track process for determining the appropriate level of assistance to Iraq.
In section 2212, the conference report includes a provision similar to the Senate amendment that allows transfers among international assistance programs in this Act, not to exceed $100,000,000. The House did not address this matter.

Section 2213 of the conference report reflects the Senate language on extending the waiver on Pakistan sanctions. The House did not address this matter.

Section 2214 amends the authorization levels in the Afghanistan Freedom Support Act to be consistent with the levels of funding provided in this Act and H.R. 2800. The reporting requirements in section 2312 of the Senate bill are addressed in section 2215 of the conference report. The House bill did not address this matter.

Section 2215 is a new section that consolidates many of the reporting requirements of the House and Senate bills under one provision entitled "Reports on Iraq and Afghanistan." This includes issues relating to debts owed by the government of Saddam Hussein in Iraq, efforts of the United States to increase resources contributed by foreign countries and international organizations to the reconstruction of Iraq, the manner in which the needs of people with disabilities are being met in the development and implementation of reconstruction activities in Afghanistan and Iraq, progress made in indicting leaders of the former Iraqi regime for war crimes by the Coalition Provisional Authority and relevant Iraqi officials to preserve religious freedoms. In addition, this provision includes a monthly report on Iraqi oil production and oil revenues, and the use of such revenues, and progress made in accomplishing United States assistance and development goals in Afghanistan. This section reflects the requirements of House section 2207 and Senate sections 2309 and 2314.

In the conference report provision prohibits funds appropriated or otherwise made available by chapter 2 of title II of this Act from being obligated for any activity in contravention of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts. This is similar to Senate section 2218, and the House includes this matter, too.

Section 2217 is a new general provision that relates to women's participation in reconstruction in Afghanistan and Iraq. The conference report does not include language from the Senate bill expressing the sense of Congress on certain matters. The managers endorsed the intent of this language, specifying that each country that is owed a debt by Iraq that was incurred during the regime of Saddam Hussein should forgive such debt; arbitrary deadlines should not be set for the dissolution of the Coalition Provisional Authority, and that transfer of authority should occur only after the ratification of new institutions and the establishment of an elected government in Iraq takes place; the United States should make every effort to increase the level of financial commitment from other nations to reconstruction in Iraq, and that the United States contributions to these efforts should be done in a manner that promotes economic growth in Iraq and limits the long-term cost to American taxpayers; and, the removal of the Government of Iraq under Saddam Hussein enhanced the security of Israel and other United States' allies.

The managers do not include House sections 2212 and 2213 and Senate sections 2308, 2310, 2312, 2314, 2315, 2316, 2317, 2319, and 2320.

TITeL III—INSPECTOR GENERAL OF THE COALITION PROVISIONAL AUTHORITY

The conference agreement includes a new title that establishes an Inspector General of the Coalition Provisional Authority (CPA). This title is in lieu of provisions in the Senate version of the bill to establish an Inspector General of the CPA. The House bill did not contain comparable provision. The Inspector General will perform oversight and promote transparency on tracking of funds, and on continuing review and accumulation of data concerning both reconstruction activities and contracting; monitor the constant flow of information, particularly the presentation of the funds and transfers of funds between agencies and other third parties; and establish controls and a record-keeping system that can accumulate and maintain records for future reviews, investigations, and/or audits.

Funding is provided for the Inspector General within the Operating Expenses of the Coalition Provisional Authority account in Title II of this Act.

TITLE IV—GENERAL PROVISIONS—THIS ACT

The conference agreement includes a provision, as proposed by the House, which limits the availability of funds provided in this Act.

The conference agreement includes a provision, as proposed by the Senate, designating the amounts provided in the Act as emergency requirements. The House did not include a similar provision, but did include individual emergency designations with each appropriation account.

The conference agreement contains modified language proposed by the House which ensures that schools serving the children of military personnel continue to receive Impact Aid funds when their parents are deployed or killed while on active duty and the child continues to attend the same local educational agency. The Senate bill did not include this provision.

The conference agreement does not include additional funds for the Department of Veterans Affairs. The Senate proposal included $1,300,000,000 for medical care. The House proposal did not include supplemental funds. The conference agreement does not include a provision proposed by the Senate (Sec. 5001) requiring the President to submit to each Member of Congress a report on the projected total costs of United States operations in Iraq, including military operations and reconstruction efforts, through fiscal year 2008. The House did not include a similar provision.

The conference agreement does not include a provision proposed by the Senate (Sec. 5006) to permit personal injury claims by United States citizens and their spouses and children against a foreign state relating to such citizens being held hostage between 1979 and 1981. House did not include a similar provision.

The conference agreement does not include House section 3004, prohibiting funds from being provided to any unit of security forces from a foreign country if these forces credibly have been alleged to have been involved in abuses of human rights. As this is also a general provision in the annual foreign operations appropriation acts, the managers expect these criteria to apply to all funds provided in fiscal year 2004.

The managers do not include House sections 3002, 3004, 3005, 3006, 3007 and Senate sections 5003, 5004, 5005, and 5007.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2004 recommended by the Committee of Conference, with comparisons to the 2004 budget estimates, and the House and Senate bills for 2004 follow:

<table>
<thead>
<tr>
<th>Budget estimate</th>
<th>Obligational authority, fiscal year 2004</th>
<th>House bill, fiscal year 2004</th>
<th>Senate bill, fiscal year 2004</th>
</tr>
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<tr>
<td>In [thousands of dollars]</td>
<td>$87,039,984</td>
<td>$96,856,029</td>
<td>$86,449,004</td>
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Conference agreement compared with:

Budget estimates of new (obligational) authority, fiscal year 2004: +402,394

House bill, fiscal year 2004: +586,169

Senate bill, fiscal year 2004: +993,194

BILL YOUNG, JERRY LEWIS, HAL ROGERS, FRANK WOLF, JIM KOLBE, JAMES T. WALSH, JOE KNOLLENBERG, JOHN P. MCCAUL, NITA M. LOWEY, CHET EDWARDS, Managers on the Part of the House.

TED STEVENS, THAD COCHRAN, ARLEN SPECTER, PETE DOMENICI, CHRISTOPHER BOND, MITCH McCONNELL, CONRAD BURNS, RICHARD C. SHELBY, JUDD GREGG, ROGER W. BENCETT, BEN NIGHTHORSE CAMPBELL, LARRY CRAIG, KAY BAILEY Hutchison, Mike DeWINE, SAM BROWNBACK, DANIEL K. INOUYE, ERNEST C. STOKES, (except title II), PATRICK J. LEAHY, (except title II), TOM HARKIN, (except title II), BARBARA A. MIKULSKI, (except title II), HARRY REID, (except title II), PATTY MURRAY, (except title II), BYRON L. DORGAN, (except title II), DIANNE FEINSTEIN, (except title II), TIM JOHNSON, (except title II), MARY L. LANDRUE, (except title II), Managers on the Part of the Senate.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 75, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida? There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 417, I call up the joint resolution (H.J. Res. 75) making further continuing appropriations for the fiscal year 2004, and
Mr. Speaker, I believe this CR is noncontroversial, and I urge the House to move this legislation to the Senate so that the government can continue to function smoothly and efficiently and so that we can continue to finish our work on the appropriations bills.

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

H. REPS. 1115

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

Mr. Speaker, as everyone knows, we are supposed to have our appropriation bills done by the beginning of the fiscal year on October 1. Right now, even if we pass the Interior bill today, the bill to which the distinguished gentleman from Florida has just referred, we will still have 9 of 13 appropriation bills that are pending, and only God knows when we are going to finish them.

This continuing resolution keeps the government open until November 7. It is a very short CR, highly unrealistic in my view, if people have any expectation that this is going to be the last CR that we need. That means that the government is not going to do this all over again next week and the following week and probably the following week. I distinctly hope that we can be finished here by Thanksgiving. I desperately hope that we can, but my experience is that we are beginning to tell me that that is not at all likely.

I notice that the reports this morning in the National Journal’s Congress Daily, I notice the report there, and in one of the newspapers this morning, I have forgotten if it was Roll Call or The Hill, which indicated that the Speaker himself is contemplating the possibility of our adjourning until January 15 because of the inability of the House and the Senate to get together on a vast number of appropriation bills, but also bills like the energy bill and the Medicare bill.

If we wind up doing that, it will be in essence a repeat of last year. And it means that we will be still dealing with last year’s business midwinter of next year, and that will put the entire system again months behind where it ought to be, and God help us, there is an election year coming up, Presidential election year which is going to chew up a good piece of July and August.

So I see here confusion and chaos. And I would point out that when this happened in the last Congress, the majority party had a convenient target. They tried to blame it all on good old TOM DASCHLE, the then-majority leader in the Senate. Well, to paraphrase what President Nixon said once, the majority party does not have the Democratic majority to kick around anymore because the party, the Republican Party, controls the majority of both Houses and the White House. And so any delays that we have in passing appropriation bills or other bills for that matter, any delays we are experiencing come because the Republican majority is having an argument with itself, between its House Members and its Senate Members.

I think one of the reasons that this is dragging everything behind again is because, as we all know, there has been a conscious decision, certainly on the part of the leadership of this House, there has been a conscious decision on the part of the Republican leadership to run this House on the narrowest of partisan majorities, rather than putting together bipartisan compromises on each of the 13 appropriation bills. The most spectacular example of that is the Labor Health appropriation bill, the choice has been made to try to govern with only Republican votes.

Now, if you have 300 people who are in support of a bill, it makes it a whole lot easier to get your work done because you have a much wider margin of control. But if you are only trying to get the votes of the House with a narrow majority of 220 or 230 votes, then every time you lose five or six votes, it is a big problem because that slows the train down. So I think there is a lesson in here somewhere. If the Republican Party leadership wants to do it that way, and the lesson is, that if you reach out and try to reach bipartisan conclusions, the House runs more smoothly and you have a much better chance of not having every little disagreement within your own party lead to delay, delay and more delay. That is just a pragmatic observation, and I would urge that the House leadership take it to heart. I have no expectation that they will, Mr. Speaker, but I wish they would.

I think the problem that we have is that even within the Republican Party, there are a substantial number of Members, if not in this House then in the other body, who have substantial concerns about some of the appropriation bills. Example: Veterans health care has been a huge issue since the President presented his budget, and veterans groups all over the country are objecting to the inadequate level of funding, whether it will be done by an across-the-board cut in other items in the VA HUD bill or by the VA HUD bill that left the House did not contain sufficient funding for veterans health care, but the VA HUD bill that left the House did not contain sufficient funding for veterans health care even to satisfy Republican Senators. So we had the Senate adopt, because they could not get the VA HUD bill to the floor, we had the Senate Republicans offer a motion which added $1.3 billion for veterans health care to, of all bills, the Iraqi supplemental.

Last night, the conference jettisoned that $1.3 billion cut on the argument that they would put it on the VA HUD bill, but we have no idea whatsoever of how that will be done, whether it will be done by busting the caps, whether it will be done by providing emergency funding, whether it will be done by an across-the-board cut of items items in that bill. We just do not know.

And in that same bill, we have the problem of inadequate funding for local
law enforcement because the White House budget tries to pretend that it is funding homeland security items by reducing funding for the normal aid to local governments, local police departments, in the form of the Byrne Grants and other regular law enforcement programs.

We also have the problem of the Labor Health and Education bill where the education funding falls billions of dollars behind the No Child Left Behind Act which was the President's trump card a badly just 2 years ago. We have a dispute between Republicans in both Houses over adequate funding levels for NIH, and I think there is considerable discomfort within the Republican Party, and certainly within ours, about the inadequate level of funding for special education for handicapped children.

My point is simply that we are here, late in the year certainly it is not unprecedented. It has happened before under both parties, but I do not recall in quite some time it being this chaotic. And I also believe that it would have been very easy to avoid had we at least modest efforts at reaching a bipartisan approach to the budget resolution, for instances, which has caused the squeeze on appropriation bills.

So, Mr. Speaker, I think we have no choice but to pass this continuing resolution, but I think it is simply another small bridge to next week when we will have to pass yet another one, and I think the best way to break through this problem is not by exhorting people to reach agreement where there is no agreement. I think the best way to break through this problem is by changing the parameters so that we consider a broader-based compromise on some of these bills than has been considered to date.

That is the only way that I see that we can achieve. If there was allowing turkey time with any degree of satisfaction and self-respect. Certainly the gentleman from Florida was able to put his bills through the House in a timely fashion, but when such limitations have been imposed, as is the case in this session, it becomes almost impossible for the House and the Senate to reach agreement on time, even when one party is in control of all the levers of government as the majority party now is.

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

Mr. YOUNG of Florida. Mr. Speaker, I have no further requests for time, and I only have a brief closing statement. I wonder if the gentleman from Wisconsin has any additional speakers.

Mr. OBEY. Mr. Speaker, I think we have two additional speakers at this time. I yield 5 minutes to the gentleman from Arkansas (Mr. BERRY) a distinguished member of the committee.

Mr. BERRY. Mr. Speaker, I think that we have indeed on the Committee on Appropriations had good leadership.

I compliment the gentleman from Florida on the great job he has done leading that committee. I compliment my own ranking member the gentleman from Wisconsin (Mr. OBEY) for the wonderful work that he does, but I think, Mr. Speaker, rather than just pass another CR and let us see how long we can stall dealing with the problems of the American people, facing up to the reality that we have got some massive problems in this country, it is time to realize that we have some serious problems, and the way to fix those problems is for us to work together like we have under the leadership of the gentleman from Florida and the gentleman from Wisconsin. Let us face our own reality. Let us try to get this done. We should stay in this Chamber day and night for as long as it takes to get the job done for the American people.

One of the things that is holding up the completion of this year's work is the Medicare reform bill. One of the things that is holding it up is the massive debt that we are creating for our children and grandchildren with absolutely no plan whatsoever to deal with it. Our seniors do not have the medicine that they need, and we know how to fix this problem. We can actually fix this problem without spending a large amount of government money.

We should not leave this Chamber again until we solve these problems or at least come to some mutual agreement as to how we are going to work to try to get this done. We should stay in this Chamber day and night for as long as it takes to get the job done for the American people.

This is not about Republicans. It is not about Democrats. The senior citizens in the 1st District of Arkansas do not give a hoot whether it is Republicans or Democrats, but they do care about the fact that they get robbed by the prescription drug manufacturers of this country to the point where they cannot buy their own medicine and they are not going to be able to heat their homes this winter. They care about that, and I care about it for them.

It is time that we face the reality of the problems and quit trying to take care of those that have patronized us and work in a cooperative way between the parties, with the leadership of good men like the gentleman from Florida and the gentleman from Wisconsin, to lead us through these efforts and get the job done for the American people.

Let us work together to do this, but let us not leave this Chamber again until it is done.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. DeFazio).

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

I do not believe that either the chairman of the committee, and I certainly know that the ranking Democrat on the committee is not comfortable with this process, not comfortable with the allocations that have been put forward for crucial legislation for the American people.

The issue and still hanging out there are everything that goes to Health and Human Services and Education that the government does, things crucial to the health of our people, crucial to the education of many; also the issue of veterans health care, as the gentleman from Wisconsin said. We still have not adequately funded and taken care of identified problems with veterans health care, and yet money to do that in the bill coming up later today was stripped from the legislation late in the night.

We have the issue of homeland security. I serve on the Select Committee on Homeland Security, and we know that we are not meeting the needs adequately of aviation security; of port security; of the other aspects of homeland security; of first responders, those who we are going to call on, our fire, our police, and others in our home States who do not have the tools they need to respond day to day, to deal with catastrophicencies and terrorist attacks. Yet here we find ourselves again on the floor of the House, yet again continuing through a temporary measure the operations of the government.

These things would not be this way if the Republicans held the White House and controlled both the House and the Senate. Oh, well, actually, they do. That is right, I forgot. So it must be the Democrats that are holding things up. Maybe it is Bill Clinton who is responsible for this. I think maybe it is his fault, actually, because he left us with a surplus and now we have a $500 billion deficit and we do not have the money to adequately fund veterans or our seniors. We just do not have the money to do it. We do not have any money at all. We are just stuck here.

Except, wait a minute, later today we are going to take up a bill to borrow another $87 billion to continue the conflict in Iraq and to build an infrastructure that is gold plated, a wonderful gold-plated infrastructure; but we do not have money here in the United States to perform some of the same functions. We are going to put another $50 million into the Port of Umm Qasr. I cannot get $8 million to dredge the ports in my district. The President says we are simply out of money. But we can borrow $50 million for the Port of Umm Qasr, and we will be voting on that later today.

Mr. Bremer, the proconsul in charge of Iraq, is appalled that many people
get their water through lines from open canals. He thinks they need a modern water system. The city of Alhambra in my State is doing a bond measure to meet Federal mandates for water supply because they get their water supply through an open unlined ditch. They cannot get water currently from the Federal Government to help with that project; but we can borrow the money to do it in Iraq.

How is it we can borrow money for all these projects in Iraq and we cannot find the money here? Under arbitrary limits, to fund education programs for Americans, to fund veterans health care programs, to fund homeland security? What is wrong with this picture? Well, it turns out that the Republicans themselves cannot agree, between the White House and the House and the Senate. So we find week after week we do these temporary bills, temporary bill after temporary bill; and yet they do not deliberate toward any real result.

I am certainly not on this esteemed committee, but I am on another committee that will be the subject of debate later today; and I was just involved in a conference committee, except my committee was never met. The result was dictated by the White House, something that I believe will jeopardize public health and safety, and it was accepted by the majority party. But then they found they could not get what was going to do what the House was dictating they should do. Some thing is happening here with our education programs, with our veterans health care, with our first responders, with our homeland security. The dictates have come down from above the level of this committee that say this is all the money there is.

We can borrow money for Iraq, but we cannot borrow money to fund these vital programs here in the United States of America; and we put a higher priority on taxes. Of course, we cannot get the bills passed. The votes are not here. This is a very sad state of affairs.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. MURTHA), the ranking Democrat on the Subcommittee on Defense of the Committee on Appropriations.

Mr. MURTHA. Mr. Speaker, I want to ask the chairman a question. How long do we only do this for a week? We are going to have to do this whole thing in another week? We get up here with all this debate, but could the gentleman tell me why? He knows we are not going to get done in a week; he knows it will take until Thanksgiving. Why are we only doing this for a week? Can the gentleman tell me?

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, the answer is that I agree with the gentleman, that we will not conclude our work prior to the 7th and we will need another CR. But that will not be due to any problems in the House. That will be because we are having some very difficult negotiations in the conference on the remaining bills, and also the water supply. The other body has not even passed four of the bills in their own House.

So I would suspect that the gentleman is correct, that we will need another CR; and maybe I can have a better explanation than that.

Mr. MURTHA. Mr. Speaker, reclaiming my time, I just do not understand. We know it is going to take longer. I do not understand why we would be forced to go through the same administrative procedure every week. We know we are going to pass the CR. I just do not understand. Are we controlling this from the appropriation side, or is this above our pay grade?

Mr. YOUNG of Florida. If the gentleman will continue to yield, I would say that the resolution before us today is the resolution that the chairman of the committee has presented, and that was a decision that was made at my level and at that of the distinguished chairman of the Appropriations Committee.

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

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate the gentleman from Pennsylvania yielding to me.

I might mention, because the chairman can defend what I am saying, that we are going through this routine, I know in large part, or maybe in small part, because for 40 years the Democrats ran the place and that gave us time to learn a lot by watching what they did. And from time to time they were even smart enough to understand that there was a need to put pressure on the other body, because that other body operates in a way that is hard for me to imagine.

Mr. MURTHA. Mr. Speaker, reclaiming my time, if the gentleman would not mind, let me just respond that I always went for the longest possible CR. I did not want ever to bring up a CR where we had to go through this every week, every 7 days, every 10 days. It is always easier to get it done in a reasonable time. But I understand what the gentleman is saying.

Mr. LEWIS of California. Mr. Speaker, if the gentleman would continue to yield, I know that he is one of the smartest guys in this place, and the leadership has difficulty getting everybody to be as smart as he is. And I would note, Mr. Speaker, that the gentleman from Pennsylvania is speaking longer than I have seen him speak in the entire time I have been in the Congress. That is how smart he is. And it is a pleasure doing business with him.

Mr. MURTHA. Mr. Speaker, reclaiming my time once again, I know the chairman wanted to extend this, but I just wanted to needle him a bit about doing this every week.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Let me simply say, Mr. Speaker, in response to the gentleman from California, that the last year the Democrats were in control, I was chairman. We did not have to start every 7 days, but we did before the end of the fiscal year, not because there was anything special about me, but because my party leadership allowed me to walk across the aisle to work out a bipartisan allocation between the 12 subcommittees. Even the chairman of the Republican conferees had a two-thirds Republican voting against the final product much of the time. But at least I was allowed to put together a bipartisan allocation of dollars, and that is why we were able to finish it on time.

That is in contrast to the instruction that the gentleman from Florida has unfortunately been given by his leadership, which has led to the fact that the Republicans at this point in the House and the Republicans in the Senate are doing an argument with themselves. That is the problem.

Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Wisconsin has 7 minutes remaining.

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me tell the gentleman from Wisconsin for yielding me this time and acknowledge the fact that the work done by the distinguished chairman of the Committee on Appropriations and the ranking minority member in moving the appropriation bills through this body has been on time. We understand that. And we understand that there is a political process that must go forward in order to reconcile the differences.

I agree completely with the ranking member that the parameters in which we are operating were very difficult for us to work this out, and we should acknowledge that sooner rather than later so that we can finish the appropriation bills.

I also understand it is unlikely we will finish all our work by November 7. But, Mr. Speaker, I would think that we would use this time to get our work done, rather than a very short week and not dealing with the business that needs to be done. The committee I serve on, the Committee on Ways and Means, has two very important issues we have to resolve before Congress adjourns, and yet we are not doing any work as a collective body on those two issues.

One of the two issues I refer to is unemployment insurance, which is scheduled to expire at the end of December; and yet our committee has not even held a hearing or done any work at all on extending the unemployment insurance, because it is another CR; and the other issue is the bill we would use this time in order to make sure that we do not do what we did last Christmas and adjourn leaving those people who cannot find employment...
Mr. Speaker, I hope that we use these next 7 days not only to reconcile the differences on the nine remaining appropriation bills that should have been passed by October 1, which we should have done well before this date, but we reconcile our differences on the other mandatory bills before Congress adjourns to provide prescription drug benefits for seniors, which desperately need it within the Medicare system, a real benefit, a benefit that they know will help them deal with the ever-increasing costs of prescription medicines, and a bill that will extend the unemployment benefits not just to those 80,000 Americans every week who are exhausting their State benefits, but also the million and a half who already have exhausted their Federal benefits that need extra weeks that are included in the legislation that has been filed by the gentleman from New York (Mr. RANGEL) and me.

Mr. Speaker, I thank the gentleman from Wisconsin (Mr. OBEY) for yielding me this time so we can put this particular legislation in context. It is not just about extending government, it is also giving us an opportunity to get our work done before we adjourn this session of Congress.

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

Mr. Speaker, since I first came to this body in 1969, we have had divided government for all but 6 years. The only time we have had Democratic control of all of the power levels of government was the 4 year period under President Carter and the first 2 years under President Clinton. For the last of that time, we have had divided government until the Republicans took the whole shebang in the last election.

It is clear that regardless of what we want to talk about in yesterday’s chapter, the chapter being written today, the chapter that is in process is in control of all of the power levers of government, and they are in a very big debate with themselves. As a consequence, we again, as was the case last year, do not have the work done. That is not the fault of the gentleman from Florida. I do believe it is the fault of those who have decided that every issue will be decided within the Republican caucus rather than trying to work out more broad-based bipartisan bills.

Nonetheless, that having been said, we have no choice but to pass this resolution. I would hope that we would have a sense of realism about how to get the job done between now and the work done before we are going to, so I am afraid the gentleman from Florida (Mr. YOUNG) and I will be back on the floor next week and the following week pursuing these week-to-week extensions. Sooner or later, we simply have to change the mind-set which has allowed this drift to continue.

Mr. Speaker, I ask for an “aye” vote on the resolution.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time. First, I want to needle the gentleman from Pennsylvania (Mr. MURTHA) and then I am going to compliment the gentleman from Wisconsin (Mr. OBEY), and then I am going to make some comments about the issues on the CR.

When the gentleman from Pennsylvania (Mr. MURTHA) said in a friendly way that he was going to needle me, I want the gentleman to know that I have by, whether so much, times there is not much room left to put needles in, but I am prepared, willing, and able.

Mr. Speaker, I want to compliment the gentleman from Wisconsin (Mr. OBEY) for several reasons. The truth of the matter is that the House’s part of this appropriations process has worked very well. The gentleman from Wisconsin (Mr. OBEY) has been a major player in making this process work. Now, I would say we do not always agree with each other. In fact, we disagree a lot. But occasionally we do agree with the gentleman from Wisconsin and we support what he wants to do. But when we do not agree, we do not agree; and we are the majority so we can excuse him.

The year when the gentleman from Wisconsin (Mr. OBEY) was chairman, we did not have any CRs. All 13 appropriations bills were passed by October 1, which is the beginning of the fiscal year. I compliment the gentleman for that because that does not happen very often. In fact, in the last 16-18 years, it has only happened twice. Once was under the watch of the gentleman from Wisconsin (Mr. OBEY), and he deserves a lot of credit for that. But I would also remind the gentleman that he had 82 more Democrats than Republicans, and that made his life a lot easier.

Mr. Speaker, the House has been very successful this year. Let me just relate a few things. I have already mentioned what the House. The gentleman from Wisconsin (Mr. OBEY) said he did not want a repeat of last year, and I say Amen to that. We do not want a repeat of last year when we could not even get our bills brought to the floor, although we had marked them up in committee.

So at the beginning of this year, we completed 11 of last year’s 13 appropriations bills. We completed, conferred, and passed them, and they were signed into law. We also completed, in the House and conference, one major supplemental. We have passed all 13 of our regular fiscal year 2004 bills. We have also passed a mini-supplemental that has been conferred and sent to the President which has now been signed. We have filed the major Iraqi supplemental, which we will take up in the House this afternoon. So we have had a very, very busy year on the Committee on Appropriations front, here in the House of Representatives.

Our work is not done yet. When we pass the Department of Interior bill today, that will be only four of the 13
bills completed. There are four more in conference: military construction, energy and water, Labor-HHS and Trans. We expect to send to conference the foreign operations bill next week. There are still four bills in the Senate awaiting action by the appropriate committees: Commerce-State/just, the Veterans and HUD appropriation bill, the District of Columbia appropriation bill, and the agriculture appropriation bill. We cannot go to conference until they pass those bills.

But to suggest, as one Member did, that there is hardly any action at all, this Committee on Appropriations has been pretty busy and pretty effectively busy.

Another Member suggested that Democrats are excluded from our conferences. I only go to conferences on appropriations bills, but since I have had the privilege of chairing this committee, no Member of either party has been excluded from the work we are doing at these conferences.

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

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, what the previous Member said was not in any way directed at the Committee on Appropriations. The Member was pointing out in a number of the authorizing committee conferences, that Members of the Appropriations Committee excluded; shall might point out in the process, probably the public interest was excluded as well.

Mr. YOUNG of Florida. Mr. Speaker, I appreciate the gentleman's comments, and he is exactly right. On the Committee on Appropriations bills, the gentleman from Wisconsin (Mr. OBEY) and I communicate on a regular basis. I try to make sure that the gentleman and the minority are aware of anything that we are planning. We often consult and ask them how they would deal with issues. On the appropriations process, we have a good arrangement and I think we provide a good product. We do not exclude Members.

I know there are some strong feelings about a 7-day CR or a 15-day CR, and probably it would have been more realistic to go a little later into the month when I think we could conclude our bills. I know Members are anxious to adjourn, but for Members on either side who want to complain about getting done so we can get out of here, I have to remind them, that we get paid 12 months a year, and the people should expect us to work 12 months a year. And if it takes 12 months, we are going to do it. Members sign up to get their paychecks every month, and should be prepared to work. We are still not at the end of the year. We will conclude our business before then, but if someone is really anxious to get out of here, maybe they should look for different employment.

Mr. Speaker, I yield back the balance of my time and ask for a yes vote on the CR.
Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent to have my name removed from the noes, appearing to have it.

The question was taken; and the result of the vote was announced as above recorded.

So the joint resolution was passed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2510

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2510.

The question is on the motion to adjourn.

The Speaker pro tempore (Mr. THORNBERY). Is there objection to the request of the gentleman from Califormia? There was no objection.

MOTION TO ADJOURN

Mr. BERRY. Mr. Speaker, I move that the House do now adjourn.

The Speaker pro tempore. The question was taken; and the result of the vote was announced as above recorded.

Announcement by the Speaker pro tempore

The Speaker pro tempore (Mr. SWEENEY). The motion with respect to the amendment 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, that upon adoption of the resolution to revise and extend his remarks.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 422 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 422

Resolved, That upon adoption of this resolution it shall be in order to consider 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. All points of order against the conference report and against its consideration shall be waived. The conference report shall be considered as read.

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

Mr. LINCOLN DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGovern), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. LINCOLN DIAZ-BALART. Mr. Speaker, House Resolution 422 is a rule providing for consideration of the conference report accompanying H.R. 2115, the Vision 2010—Centenary of Aviation Reauthorization Act. Mr. Speaker, I would briefly remind this Congress of the essential authorizations provided through this bill. First and foremost, the legislation reauthorizes the FAA for 4 years and $34 billion in fiscal 2004, increasing by $100 million in each year thereafter. The FAA is, of course, primarily responsible for the safety of the Nation's skies through activities ranging from the continued monitoring by air traffic controllers to the development of new airspace technologies.

The district that I am honored to represent contains Miami International Airport, one of the major transportation centers of the country.

The district that I am honored to represent contains Miami International Airport, one of the major transportation centers of the country.
the Nation's busiest, both for international and domestic travel. I am always impressed by the level of public-private cooperation between such organizations as the FAA and Miami International. This cooperation is evident, as well, through many provisions in this legislation. For example, $500 million for airport security improvements at airports; grants and tax credits for low emissions; compensation to general aviation for losses from security mandates; and war risk insurance to the airlines.

This Congress was quick to assist airlines after the tragedy of 9/11, and rightfully so. The economic benefits from the movement of people and goods the airlines provide obviously demand our attention. However, we must also consider those smaller aircraft which were restricted for months. Accordingly, this Congress will act through the underlying legislation to help general aviation return to financial stability by providing compensation for the hardships on their business. This bill authorizes $100 million for these general aviators that were greatly affected by increased security restrictions.

I would like to thank the gentleman from Alaska (Chairman Young) and the gentleman from Florida (Chairman Mica) for their extraordinary leadership on this important reauthorization, and I urge my colleagues to support this important rule and the underlying legislation.

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

Mr. McGOVERN. Mr. Speaker, I thank my friend from Florida for yielding me the customary 30 minutes, and I yield myself 5 minutes.

Mr. Speaker, I rise in strong opposition to this rule, and I urge my colleagues to vote it down. Just when I think I have seen everything, the Republican leadership comes up with a new surprise. We are seeing appropriation bills that no one can amend. We have seen huge multibillion dollar omnibus spending bills being written in secret and shoved through the House. We have seen twisted arms and broken promises. But tomorrow is Halloween and the leadership has come up with a brand-new trick: the invisible conference committee.

As everyone knows, just 2 days ago, the Republican leadership, after nearly 5 weeks of delay, finally brought up a rule to send the seriously flawed FAA conference report back to the conference committee. The House, in a bipartisan way, approved that rule, with the hope that the flaws in this bill could be fixed and we could reauthorize important aviation and safety programs. Instead, the invisible conference committee did not hold a single public meeting, a violation of House rules. Republican and Democratic members any opportunity for input or amendment. In fact, Democratic members of the conference were never even notified that a conference was taking place, and they were never notified that a new report was ready until after this new conference report was filed.

Now, I do not even know if Republican members of the conference committee met, or if some leadership aide or some lobbyist changed the bill himself on the back of a napkin.

Mr. Speaker, this is outrageous. When we shared our concerns with the chairman of the Committee on Rules last night, he told us that he understood from some leader and that he would talk to his leadership about it. With all due respect, Mr. Speaker, it is not enough to feel our pain. What we are looking for is fairness.

Last night, the Committee on Rules Republicans could have stood with Democrats and demanded that the House rules and procedures be respected. They had their chance to make their actions match their rhetoric. But sadly, they chose, once again, to follow their leaders, rather than follow the rules.

Again, this is not an isolated incident; this is part of a continuing pattern of disregard for the rules of this House, disregard for other points of view, disregard for open debate, disregard for the American people and disregard for the American people.

As I have said before, I understand that the majority has the responsibility to manage the House and that the Committee on Rules can be a tool for the majority. But under this Republican leadership, the Committee on Rules has become not a tool, but a weapon, a weapon used to smother, stifle, and suppress; a weapon used to cover up bad behavior and undermine the democratic process.

These matters, Mr. Speaker, are not just "inside baseball." They are matters that directly impact the American people. In this case, the conference report for the FAA bill does not just directly contradict the expressed bipartisan will of both the House and the Senate; it also jeopardizes the safety of the people we represent.

The bill still allows for the privatization of air traffic control, despite the fact that both the House and the Senate voted to prohibit privatization. If this provision becomes law, it will begin the dismantling of the air traffic control system as we know it.

We cannot allow our air traffic control system to be charged to the lowest bidder. Safety must come first, and we cannot do it on the cheap.

A while back, some Republican Members claimed that they opposed privatization so strongly that they pledged to vote against the conference report. I hope they follow through with that promise today.

And the bill, Mr. Speaker, still changes antiterrorism training for flight crews from mandatory to discretionary. The Transportation Security Act of 2002 directed the Transportation Security Administration to issue security training guidelines for flight crews. Section 603 of the FAA conference report guts this directive in order to give air carriers the authority to establish those training requirements at their discretion. The TSA has developed the training for Federal flight deck officers and the Federal air marshals. It only makes sense that the TSA should be responsible for the antiterrorism training for flight attendants so that there is a coordinated response from the entire flight crew in the event of a terrorist attack. To do anything less, Mr. Speaker, is to place special interests above passenger safety, and that is absolutely unacceptable.

Mr. Speaker, this is not the way the people's House is supposed to run. What has happened with this conference report is an outrage and an insult, not only to Members of both parties, but to the people we represent. I strongly urge my colleagues to defeat the previous question and defeat the rule.

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

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

I certainly have not seen it all, but I am learning a lot this morning, hearing the debate. Approximately 150 towers were privatized during the Clinton years. This legislation does not mandate any privatization of towers, and yet trying to reconcile with this reality and these facts, what I am hearing.

Mr. Speaker, at this time, in order to elicit some information and some facts about what the legislation is doing, I yield such time as he may consume to the gentleman from Alaska (Mr. Young), the chairman of the Committee on Transportation.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, again, I would like to thank the gentleman from Florida (Mr. Mica) for carrying this load. I had to come to this floor because there has been a lot of misunderstanding about this legislation.

All the way through this legislation the gentleman from Minnesota (Mr. Oberstar) and his staff, Stacy, were involved in this legislation as it passed from the committee and to this House floor. I was charged as chairman of the committee to meet with the Senate, and it is a two-way street, and the Senate and the House did meet.

By the way, in this bill, for the other side, the Democrat side, the provision included a special rule to maintain the minimum AIP entitlement at small airports that had lost passengers. That was the gentleman from Massachusetts' (Mr. McGovern) piece of legislation. It included a sense of Congress on flight freedom. I was charged as chairman of the committee to meet with the Senate, and the Senate and the House did meet.

By the way, in this bill, for the other side, the Democrat side, the provision included a special rule to maintain the minimum AIP entitlement at small airports that had lost passengers. That was the gentleman from Massachusetts' (Mr. McGovern) piece of legislation. It included a sense of Congress on flight freedom. I was charged as chairman of the committee to meet with the Senate, and the Senate and the House did meet.
process; that was the gentleman from Oregon (Mr. Blumenauer). A requirement to provide additional information to families affected by aircraft accidents, that was from the gentleman from New York (Mr. Weiner). Restrictions on flights to Teterboro Airport, that was the gentleman from New Jersey (Mr. Pascrell), a member of the committee.

**Parliamentary Inquiry**

Mr. PASCRELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. Sweeney). The gentleman will state his parliamentary inquiry.

Mr. PASCRELL. Mr. Speaker, has there been a violation of the House rules, the rules of this House and the integrity of this House in convening the conference on the FAA bill? That is my inquiry.

The SPEAKER pro tempore. Under the precedents of the House, a conference report must be the product of an actual meeting of the managers appointed by the two Houses.

Mr. PASCRELL. Mr. Speaker, has that been the case with this bill?

The SPEAKER pro tempore. The pending resolution proposes to waive all points of order against the conference report. Members may debate the necessity or advisability of doing so.

Mr. PASCRELL. Mr. Speaker, so in other words, the Committee on Rules made its statement, therefore, that this the House to the question, really, Correct, Mr. Speaker.

The SPEAKER pro tempore. The Chair will just reiterate what was just stated.

Mr. PASCRELL. Mr. Speaker, let me say this. That on 911, this public system that we have in the United States was able to land 700 planes in a very short period of time. They cleared the air in 2 hours. And as the ranking member of this committee has stated most eloquently, if the control of the national air space and the safety of the traveling public is not a governmental function, one has to question what is. And I think that sums it up in a nutshell.

We have had a failure of privatized baggage screening in this country, and that is why we moved into the public sector. And while those on the opposition would say that this does not, this does not advocate privatization, we know what the agenda is down the street, a part-timing of the workforce in this country, no question about it, and trying to do everything we can to undermine organized labor. My colleagues know it and I know it, regardless of where one stands on this legislation.

If one says this has nothing to do with this legislation, then what are we debating for? Why did this House vote 418 to 8, which is a pretty startling number, 418 to 8, the Committee on Transportation and Infrastructure voted, they made their decision very clear. And it is an absolute abomination that we have taken that vote and tried to strain it, cleanse it, to do everything we possibly could to it, to bring back a different floor version that we had bipartisan support, that did have bipartisan support, in order to divide this Chamber. Division, division, division. Because you have in sight your objective, and your objective is to part-time the workforce in America. You have not gone far enough. And you are afraid to talk head-on to it.

This is not the end of it. There is going to be more than adjournments, it is going to be more than debates. It is a central issue in American politics today.

Mr. Lincoln Diaz-Balart of Florida. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida (Mr. Mica), chairman of the Subcommittee on Aviation.

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

Mr. MICA. Mr. Speaker, I am pleased to respond to some of the points that have been raised on this particular rule. Having participated in the development of this legislation on this conference report, I am familiar with some of the details that I think we should, again, separate fact from fiction.

First of all, the conference did meet. I have a copy of the transcript of the conference. Let me say, first of all, in the development of this bill, we have had comments about this not being a bipartisan effort. I can say that I have been in the Congress for 11 years. And I was in the minority, and I saw how things operated in an oppressed fashion, being part of the minority I said that would never happen when I was given the opportunity to be in a leadership position.

So I conducted more hearings on the reauthorization of AIR-21, FAA reauthorization, than we did on AIR-21’s original hearings. And I have a list of all of the hearings that we conducted. I went into the home district of the ranking member and conducted a hearing. I can tell you with every single issue in this piece of legislation, the minority was consulted.

The chairman of the committee, the gentleman from Alaska (Mr. Young), just got up and told you that much of this legislation, in fact, is the work product of the minority. Opportunities I could not have dreamed of when I was in the minority.

So to say that somehow this has been unfairly conducted, or some opportunity not given, is not correct. It is not factual. We never get to the point of the conference. A conference was held and the major issue, there has only been one point of contention on this legislation from the beginning. That is the question of the contract towers. We held a hearing and we had an actual vote on the issue.

Here is the vote. Here is the transcript. Let me read: “Mr. Oberstar. Mr. Chairman, if I am recognized for the purpose of a motion, I move to adopt the language deleted referenced with respect to the language of air traffic control privatization and the air traffic control tower language.” There was a vote and they lost.
We put in the provision 69 towers. It was done in an open meeting. They were given an opportunity for a vote. This is the vote.

Mr. Speaker at this point I will insert this into the Record.

Mr. Chairman, if I am recognized for the purpose of a motion, I move to adopt the language I have referenced with respect to the language on air traffic control privatization and the air traffic control tower language.

Mr. Young. On the House side, all in favor, signify by saying aye. All opposed signify by saying no. The ayes have it.

So this was done in fairness.

Now, I do not remember too many conference reports that have been filed and been out there. We filed this the July 24. The conference has been out there. And we would have taken this up the week that we left, but we did not have time on the floor.

And in the meantime, NATCA has spent, I am told, do not know if this is accurate; I am told $6 to $7 million in a campaign of disinformation to take this provision out. Now, what we have done is we won in an open conference, and now we have recommitted the bill and we have agreed to take out the open conference provision. So we lost.

We gave again to the side to take out the provision, and they still are not happy. They say they are not being treated fairly.

We had a vote, we had an open conference, and we have taken out the issue of contention. All the other issues, every issue, was debated, every issue was discussed in hearings. And I have copies of all the hearings. I would be glad to have them made part of the Record.

So, again, the question of unfairness is unfair. Let me say to the gentleman from New Jersey (Mr. Pascrell) who just spoke, and I have the greatest respect for the gentleman, the planes that hit the World Trade Center. We understand, September 11. Half of the towers in the country, almost half of the towers in the country, 219 are contract towers. They are supervised by the Federal Aviation Administration. They are managed by private contractors. So on September 11, those people performed well.

The issue of the 69 towers, the 69 towers we did not pick out of the vacuum, out of the sky to put in the bill to look at for possible conversion to contract towers, just like the FAA towers that were examined in the year 2000 by the Inspector General. Not by the CBO, not by some partisan group, but by the Inspector General.

The Inspector General looked at those towers. He compared them in 2000 and found that the all FAA towers had 2.5 times more safety errors than their counterparts, the contract towers. And the cost was substantially more.

This did not satisfy the union, so they called for a restudy. So we asked for a restudy requested by NATCA. They reviewed it in 2002 and 2003. Here is the report. In the report they said you did not do the right comparison. You have to compare the flights, the number of flights, hours of operation. So they did that, and they just completed that. You know what? An even more exact comparison found, that there is five times more the error rate in the FAA towers. We are less safe. And they cost, look at it, the report, an average of 12 of them, $917,000 more to run.

So, we have taken out the provision that was objectionable to the other side, and they still are not happy. This reminds me of the gentleman, the Hokie Pokie. You put your right foot in. What else can we do?

So we are here today, folks, to stop the Hokie Pokie. This is very serious because our aviation system depends on it. Our improvements of our airports depend on it, and that is in this legislation. The security improvements depend on it, and many of our airports are lacking those security improvements. They are being held up because this provision is not passing.

Essential air service to our small and rural communities, never before have we produced a piece of legislation that will do more to expand air service with an aviation system that now has been under such pressure that we have nursing it back. This will do more of the job to create employment and opportunities for all Americans.

So the argument that we have not given a fair opportunity to the other side is bogus. The argument that is trying to be posed here today that we somehow did something in the dark, without consultation, here is the record. This is the record. We have been fair. We have been open. We have even acquiesced to their number one demand and to what the union has spent $7 million on in an unprecedented campaign of lies and distortion and misinformation, so we can move this legislation forward, so we can help our ailing aviation industry.

Mr. McGovern. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DeFazio), who is the ranking Democrat on the committee.

Mr. DeFazio. Mr. Speaker, that was a wonderful exercise in obfuscation.

The critical thing is that the House voted unanimously to send a failed bill, a bill which had inserted privatization into a system that no one voted to privatize when the bill passed the House and the Senate will take up and a majority voted to not privatize, and they had a press conference and then they brought the bill back. I was supposedly a member of another conference committee. There was no conference committee. We did not meet. We found out from the press that they had reported back the conference.

The conference in July, which was called upon by the chairman, and he actually had one meeting. We were to meet again after we had a series of votes. We are still waiting for that meeting. The point is, suddenly after both the House and the Senate had voted in the interest of public health and safety and control of the national air space and national security to prohibit the privatization of air traffic control of the United States of America, to surprisingly to not privatize. Suddenly a Senator shows up with an amendment to privatize 71 air traffic control towers.

When asked about it, he said, this was a de minimis sort of amendment. The chairman objected the amendment from Alaska (Mr. Young), because it included Alaska. So suddenly this great principle of privatizing 71 was dropped down to 69 like that.

Here is what the gentleman from Alaska (Mr. Young) said recently about this: "My hotel room is on the top floor of the Sheraton and the airplanes take right off towards my hotel room. Every morning I look out and there is the open right side. That interesting experience and I want to make sure everything is done right in that field ."

So somehow in Alaska, nowhere near as busy as many of the other airports, there is an open right side, privatize, but somehow it is safe to privatize other major facilities. In fact, what the majority has done is they took out these 69 airports and they have opened the door wide because they have stripped the original exclusion of the House and the Senate on privatization from air traffic control from the bill entirely.

So now the President has determined that the air traffic control of this country, the control of our air space, the safety of the traveling public, is not an inherently governmental function. That is what the President has done, reversing an executive order of the previous President.

And we have opened the door to privatize the entire system or, worse yet, to fragment it up and cherry-pick out some profitable areas to be subcontracted or contracted to Halliburton or others.

Is that what we are fixing? We have the most productive and safest air traffic control system in the world, bar none. What problem are we fixing? We are fixing the problem that nobody is making money on it. It is run by the government. That is the problem. We should put this on the model of the private security we had at airports before 9/11.

Have we so soon forgotten the firms, Argentbright and others, who hired and maintained on staff known felons to provide screening at airports, paid minimum wage, had a turnover of 140 percent, that it was the model for our air traffic control system? They want to open it up, dummy it down. As one of my colleagues said, rent-a-controller.

Maybe we can get temporary. Maybe we could transmit all the data from now and the only problem there is our aircraft spacing. Come on. This is the safest, best run, most efficient system in the world, bar none. What problem are you fixing here? You are not
The SPEAKER pro tempore (Mr. SWEENEY). The Chair will notify Members that the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 9½ minutes; the gentleman from Massachusetts (Mr. MCGOVERN) has 19 minutes remaining.

Mr. MCGOVERN. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Florida (Ms. NORTON), who is a member of the committee.

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

I can identify with the frustration of the gentleman from Alaska (Mr. YOUNG) and the gentleman from Florida (Mr. MICA) because you really did do your job. You have gotten a good bipartisan bill out of committee, and I know it because up close there were things that both chairman worked with me on and put in.

Their bipartisan bill did not have privatization. It is really hard to find out who are the folks that are for privatization because you will not find them in the东路, but you will not find them in the House and the Senate, and that is who I thought we were. This breaks my heart because both chairmen worked so closely with me to get changes in this bill that I wanted and some of them were controversial. An example is the slots, very controversial.

I did not get all I wanted, but instead of the proposed 36, it is down to 20 and we worked together to get that. I worked with the gentleman from Florida (Mr. MICA) and the gentleman from Alaska (Mr. YOUNG) because general aviation here had not been reimbursed and everybody else had been reimbursed. They said we will work with you and they did. There is $100 million in here for the small airports that were not reimbursed the way the big airlines were.

D.C. was hit especially hard because we are not open yet. They worked with me on that and there is language in here that represents of the Department of Homeland Security to develop and implement a plan to open to general aviation, including charters, to the airports so that they can come in.

They worked with them on language to get airwaves here, state-of-the-art airplanes that take more passengers, but they are quieter and more fuel efficient.

My only regret in this bill for it to be rewritten.

First, the small airports will be the guinea pigs. The poor 69 airports they have come and screamed to high heaven for because we thought after the guinea pigs the rest of us would follow. The problem, I want to say to my good friend, the gentleman from Florida (Mr. MICA), is once the language is bare, it leaves the impression, and I think that most of us have the impression, that aggression can be privatized now. It leaves the impression that instead of improving the bill, we have gone from bad to worse.

I know what we went through with security guards. If we believe that security guards are inherently governmental, and that is the language here, we surely have corrupted the concept if air traffic controllers are not governmental. 9/11 changed everything. It is a bright line. We are not willing to risk anything in the air space of our country, and the problem with the private sector is they are in the business of making money. They have got to cut corners if it gets tight. This bill fails the indispensable test of guarding our air space as we promised in the post-9/11 period.

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

Mr. MCGOVERN. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. MENENDEZ), who is also a member of the Committee on Transportation and Infrastructure.

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

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

Mr. Speaker, this conference report which is the subject of the rule represents only the second time in modern history that a conference report filed by the Committee on Transportation and Infrastructure does not include a single Democrat signature. The first time this happened was the first conference report on this same bill which subsequently had to be recommitted, and this last conference report is no better; and we will be back here again because this bill will simply not pass the Senate.

Now, the House rules governing conference committee requires that at least one conference committee be held and what that means is that all of the conferences, all of the conferences get involved in the process. My friends. In a democracy which we strive to promote throughout the world. We stand here and resolution after resolution promote it throughout the world. We are
in Iraq. We are in Afghanistan, but here in the greatest democracy in the world, Democrats representing 134 million Americans in this country through the 206 members of the Democratic Caucus do not get invited to a conference committee or to the House rules and the conference, you corrupted the will of the House that voted overwhelmingly in a bipartisan manner on this question of air privatization of air traffic controllers.

The House clearly said we do not want rent-a-controllers. The chairman of the full committee in the first conference report did not want it for Alaska. So if it is not good for Alaska, it is not good for any other State of the Nation. I agree with him and his wisdom. Also, you corrupt the process when you do not permit the opportunity for our colleagues to participate on behalf of those 134 million Americans. After September 11 we did not privatize screws, we federalized them. We federalized them. And on the September 11 day, it was these air traffic controllers that brought to the ground hundreds and hundreds of planes across the country in a very incredibly short period of time. And to ensure the safety of those who were traveling over those planes and the safety of all Americans should those airplanes be used as they were used in New York and in the Pentagon as weapons of mass destruction.

So let us give to air traffic controllers in a privatized function the responsibility for air security as well.

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

America cannot afford, in terms of the traveling public's safety once they are in the air, to have those airplanes which we have seen can be turned into weapons of mass destruction, ultimately be controlled by some.

We need to continue to keep it as it is. It is the safest, most reliable system in the world. I simply do not know why we are trying to undo that, and I certainly do not know what is so terrible about the idea that in order to ensure the safety of those who were traveling over those planes and the safety of all Americans should those airplanes be used as they were used in New York and in the Pentagon as weapons of mass destruction.

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

I sympathize with my good friends on the other side of the aisle. When I arrived in this Congress along with the gentleman from Florida (Mr. Mica) 11 years ago, I was in the minority, and I remember going to have the votes, the majority of the votes to get one's ideas passed and to come into law. So I sympathize when now our colleagues on the other side of the aisle do not have the majority of the votes, how they must feel, but I think it is important that some facts now be put on the record, Mr. Speaker.

This legislation before us mandates no privatization of towers. During the years of the Clinton Presidency, approximately 150 such towers were privatized. I do not recall my friends protesting, but this legislation, obviously they are complaining about today, mandates no such privatization of towers. And before we had 150 during the Clinton years.

Despite the fact that we on this side of the aisle have the majority of the votes, it is important to point out that in the writing of the bill and the original conference report, our friends on the other side of the aisle were intimately involved. Many provisions, in fact, were included in the bill at the request of our friends on the other side of the aisle.

For example, a special rule to maintain the minimum AIP entitlement at small airports that have lost passengers, I am told the gentleman from Massachusetts (Mr. McGovern) came forth with that idea.

A sense of progress on 5th freedom and 7th freedom flights, I believe the distinguished gentleman from Illinois (Mr. Lipinski) brought forth that idea.

An increase in the MPO participation in the airport planning process, I believe the gentleman from Oregon (Mr. Blumenauer) had that idea.

Requirement to provide additional information to families affected by aircraft accidents, I believe the gentleman from New York (Mr. Weiner) had that idea.

Restricion on flights at Teterboro airport, I believe the gentleman from New Jersey (Mr. Rotherman) had that idea.

Flight attendant certification, deadline for issuance of Stage 4 noise reduction rule, curriculum standards for maintenance technicians, provision on foreign repair station security, all of these ideas came from our friends on the other side of the aisle.

So it is important for the facts to be known. There is frustration in being in the minority. I remember my first term here, but let us not negate the facts that in the fairness of the majority, many ideas of the minority were included. I think that is required by democracy, respect for the minority, and we see in this legislation the fruits of much respect for the minority, but in addition to ideas that were brought forth by the minority, there are many ideas brought forth, I would say many more, by the majority that are very important to the safety of aviation in this country, Mr. Speaker, and that is why we must pass this legislation today.

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

Mr. McGovern. Mr. Speaker, I yield 1 minute to the distinguished lady from Texas (Ms. Jackson-Lee).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished member of the Committee on Rules for yielding me the time.

I thank the Speaker and I guess my good friend on the other side of the aisle, my good friend, if I must answer the question about our frustration, it is because democracy has been hijacked. The simple question is on this FAA reauthorization is why this could not have been sent back to the conference committee.

Now, without going further details, we have an incidence on this campus dealing with some potential danger. We are living in a new climate, Mr. Speaker. We are living where Americans are afraid because we suffered through 9/11 and the tragic loss of life. What an outrage to suggest that in this climate, we will begin to privatize air traffic controllers, the most crucial aspect of flight operation, and to my good friend, the 150 privatized that he is going to preserve the Clinton administration, that is wrong. They were not under FAA authorization, Mr. Speaker. We are grabbing these from FAA authorization.

Let me just say, Mr. Speaker, in conclusion, we do not have trained flight attendants. My colleagues have taken out the language about settling the question of 65-year-old pilots.

This is a bad bill. They have hijacked democracy. We should vote no for this, Mr. Speaker. It realizes that it has treated us unfairly. This rule should be voted down.

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

Just to reiterate, we reiterate some facts that I attempted to bring out before. First of all, with regard to the towers privatized, airports privatized, during the Clinton administration, about 100 of them were former FAA staffed towers. I believe the gentleman from California, that in the legislation brought forth today, there is mandated no privatization of towers.

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

Mr. McGovern. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Sherman).

Mr. SHERMAN. Mr. Speaker, I rise on behalf of the largest general aviation airport in this country, Van Nuys, and the millions of people who live in its environs. This bill is designed to selectively privatize air traffic control. That is unsafe, and it is inherently going to be political.

The chairman of the committee said, "my hotel room is on the top floor of the Sheraton, and airplanes take off right towards that room." That is why Alaska was not going to be included in earlier drafts of this bill. The gentleman from Florida (Mr. Mica) announced to the Aerial Derby, that he was going to selectively include and exclude airports based upon which political support he needed for the bill. But at least the prior drafts of this bill...
represented an open, corrupt, political process for deciding which constituents must live with unsafe conditions, that the chairman of the committee would not subject himself to.

This bill [in its final form] provides us with the final decision-making, with the White House doing everything [which air traffic control towers to privatize] behind closed doors. Vote against the rule, and against the bill.

Mr. McGovern. Mr. Speaker, can I inquire how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. Sweeney). The gentleman from Massachusetts (Mr. McGovern) has 10 minutes remaining. The gentleman from Florida (Mr. Lincoln Diaz-Balart) has 6 minutes remaining.

Mr. McGovern. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Illinois (Mr. Oberstar) who is the ranking Democrat on the Committee on Transportation and Infrastructure.

Mr. Oberstar. Mr. Speaker, I thank the gentleman for yielding the time.

I am somewhat bemused by the quaint reconstruction of history to which we have been treated by the chairman of the subcommittee, reconstruction of what took place in the House-Senate conference that met for 1 day July 24 and has not met since.

The gentleman also said there was only one issue, only one amendment offered. It was a conceptual amendment that would not accept to which we had been treated but for which we did not have paper. And so since we did not have, and contrast every conference we have participated in over 24 years, I offered an amendment in concept, and we had a cursory discussion of the subject matter which was to reiterator the Senate language, and that was voted down.

We were notified of votes in the House and in the Senate. The conference adjourned with a reference by the chairman of the conference that we might meet again, if we could somehow get together, but it was urgent and important to get this bill through conference, to the House and Senate floor, so that it could be passed before the August recess.

The reason there was only one subject discussed was that all that we were given time to discuss. Any other issues raised in the House or Senate, the time ran out.

There are at least four major issues.

One, the air traffic control privatization, which has been said time and again in this Chamber and the House voted clearly to prohibit the privatization of the air traffic control system; the other body did the same. And yet the conference report that appeared the other night, after this very important meeting that we had to conclude the work of the conference and never met again that night, magically a document appeared, and the item that had been voted on and recorded votes in the House and Senate, just disappeared.

We never had, in the conference, an opportunity to discuss other issues such as mandatory training of flight attendants. We never had an opportunity to discuss the cabotage issue in Alaska, and we never had an opportunity to discuss the matter that the gentleman from Pennsylvania (Mr. Peterson) the day before yesterday, so forcefully brought up by this floor, which was essential air service and requiring small communities to pay for air service, never had that discussion in that conference, and this document appeared full blown from the head of Zeus, magically.

Why could we not have documentation at the conference 24 hours earlier is beyond me, but that did not happen. So then 94 days expired without that urgent bill being brought to the House floor, and then finally the majority decided that either there were not the votes in the Senate or there were not the votes in the House to pass the document as reported from the committee of conference. So they came back to the Committee of Conference. The Committee on Rules brought a bill to the floor.

We all voted, recorded vote, unanimous on both sides, urged all Members on our side, vote for it.

This is exactly what we had asked for to go back to conference, and we had a gentlemanly discussion about conference and then it did not happen.

That is unprecedented in our committee, and I think an insult to the Members of the House, and I take it personally.

Mr. Mica. Mr. Speaker, I yield 12 minutes to the gentleman from Florida (Mr. Mica), the distinguished chairman of the Subcommittee on Aviation.

Mr. Mica. Mr. Speaker, as we conclude the debate on this rule, again I urge my colleagues to pass the rule. We have the authority to do it, not that we want to do it, but we should do it.

It does boil down to, unfortunately, this one issue that divided us. We have acquiesced to the other side. We did put in 69 towers out of the 71 towers identified.

The two from Alaska, and please do not pick on my chairman, the gentleman from Alaska (Mr. Young), he represents an area that is just unbelievable. You have to go to see Alaska to believe it. It takes 3½ hours by jet from one end of the State to the other. And the two towers that were named in this report, first of all, the gentleman from Alaska (Mr. Young), all those additional 69 contract towers over any 10 States put together, but the two that were mentioned in this, one is being converted to a capstone, that is the Juneau, Alaska, tower; and the other one, if you go and look at the Anchorage tower, it is quite unique. It has a combination of military, private sector, and FAA operations. So they really do not fit into this program. And that is why that was exempted. But what we have done here is we have taken out all 69.

Now, yes, I offered if anyone wanted to read this report that says that a contract tower which is an FAA supervised and privately managed is 4½ times safer, really it has 4½ times less error than an all-FAA tower and it costs less. Heaven forbid in Congress we should deal with saving the taxpayer money and have something that is safer and costs less, like this report identifies. I suggested we give the other side the opportunity, but they did not want to do that. I said I will give that opportunity. If people want to do that, fine.

The conference participants really have decided what the issue was. There is one issue. Here is the record. So it has to be, boil it down. We have taken out the 69 towers from any potential of privatization. There is no mention of privatization in this bill. We gave them basically what they want, and they are still not happy. So, again, it boils down to a vote. We have to vote on this measure.

Again, the question of the executive order, President Clinton, for 7 years and 9 months practically, had the ability to look at any of these towers. He made some of them private with contract arrangements, and then he changed it. We know why he changed it, a huge amount of money, look at the record, you see what happens in campaigns and elections; and this President changed it back to where it was when the President Clinton had it.

And this is the safest system. We have 219 contract towers in the United States. Almost half of the towers in the United States are contract towers, and they are safe. And they also helped in making the planes safer on September 11. So do not bash the current system.

That is what we are asking for, plus all the good things that we have
Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from Oregon (Mr. DeFazio).

Mr. DeFazio. Mr. Speaker, the gentleman has raised several issues. This bill opens the door even wider to privatization. The original House and Senate bills prohibited privatization. This bill does not. The President has determined that air traffic control is not an inherently governmental function. They want to contract it out. They want to make it into private profit.

And on the so-called operational areas, guess what. They are voluntarily reported. And of the 219 contract towers, only eight of them voluntarily reported an error. To say they had a very low error rate, the GAO determined, the IG determined that this was not a valid study, because we do not have mandatory reporting. We do not know whether there were errors or not. We cannot say they are 4½ times safer.

And to say that we did this because of contributions is outrageous, and I should have had the gentleman’s words taken down. Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I reserve the balance of my time.

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

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

Mr. MCGOVERN. Mr. Speaker, I move that the House do now adjourn. The SPEAKER pro tempore. The question was taken; and the nay vote is 2 minutes remaining and the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 2 minutes remaining.

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

RECESS

The SPEAKER pro tempore. The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LaHood) at 3 p.m.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3289, EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT FOR DEFENSE AND FOR THE RECONSTRUCTION OF IRAQ AND AFGHANISTAN, 2004

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–338) on the resolution (H. Res. 424) waiving points of order against the 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, which was referred to the House Calendar and ordered to be printed.

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

The SPEAKER pro tempore. The Chair would announce that the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 2 minutes remaining on the rule, and the gentleman from Massachusetts (Mr. MCGOVERN) has 5 minutes remaining.

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

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Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.
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Mr. LEWIS of Kentucky, Mrs. JOHN-SON of Connecticut and Mr. RUPPERSBERGER changed their vote from “yea” to “nay.”

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

### NOTICE

Incomplete record of House proceedings.

Today’s House proceedings will be continued in the next issue of the Record.
The Senate met at 9 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.
Majestic God, from whom we borrow heartbeats, Your mercies endure forever. Today, we acknowledge our dependence on You. Lord, thank You for directing our steps and for protecting our loved ones. When darkness overtakes us, illuminate our path.
Let Your peace rest upon us today. Teach us to love wisdom and accept Your guidance. Keep us from traps that destroy our joy. Give us the humility that leads to honor and let Your justice reign in the Earth.
Guide our Senators, cheer them in their work, and keep them faithful to the end. Thwart the hopes of our Nation’s enemies and bless those who each day risk their lives for liberty. We pray this in Your holy 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 ACTING MINORITY LEADER
The PRESIDENT pro tempore. The acting minority leader is recognized.

SCHEDULE
Mr. LOTT. Mr. President, we will have the opening statement from the leader ready in a moment. He has been detained, but he will be here. I will review the schedule. I do believe the first schedule of events would be statements regarding the nominee to the Fifth Circuit Court of Appeals, Judge Charles Pickering of Mississippi. I believe we will be ready to begin with that momentarily.

Mr. President, this morning we will be proceeding to the debate, as I just outlined, on the nomination of Charles Pickering to the Fifth Circuit Court of Appeals. There will be an hour of debate prior to the vote on invoking cloture on this nomination. The vote will occur sometime shortly after 10 a.m.

Following the vote, the Senate will return to debate on S. 139, the climate change legislation. There will be 2 additional hours for debate prior to the vote on that legislation.

Following the vote, the Senate will resume consideration of the Healthy Forests bill. We expect to have rollcall votes on amendments to that bill throughout the afternoon and hopefully we can complete action on the bill today. It sounds to me as if those involved in that legislation made real progress on the bill. It would be very positive if we could complete that action today.

RESERVATION OF LEADER TIME
The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION
NOMINATION OF CHARLES W. PICKERING, SR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT
The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider Calendar No. 400, which the clerk will report.

The legislative clerk read the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDENT pro tempore. Under the previous order, there will 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.

The Senator from Utah.

Mr. HATCH. Mr. President, I rise today in support of the nomination Charles W. Pickering, Sr. to be a Circuit Judge on the United States Court of Appeals for the Fifth Circuit. I am pleased that the Majority Leader has brought this nomination to the floor, as it has been nearly 2½ years since Judge Pickering was first nominated to this position. Since then, his record has been carefully considered. He appeared before the Judiciary Committee in not one, but two lengthy hearings. So there has been plenty of opportunity to consider the qualifications of Judge Pickering.

We have received hundreds of letters of support for Judge Pickering from the public, members of the bar, as well as political, academic, and religious
So today I must stand and defend the bewildering support for Judge Pickering’s nomination from his home state of Mississippi speaks volumes, especially since that support comes from across the political spectrum and from various racial and ethnic groups.

Last month, the Governor of Mississippi and the other Democratic elected statewide officials of Mississippi sent a letter endorsing Judge Pickering stating they believe he should be confirmed. In that letter, they noted that Judge Pickering has worked for racial reconciliation and “helped unify our communities.” They go on to state, “Judge Pickering’s record demonstrates his commitment to equal protection, equal rights and fairness for all. His values demand he respect the law and constitutional precedents and rule accordingly. He does... As a judge, he is consistent in his fairness to everyone, and deemed well qualified by those who independently review his rulings, temperament, and work.”

Unfortunately, there has also been an unjustified campaign against Judge Pickering, driven largely by Washington special interest groups who do not know Judge Pickering and who have an ideological axe to grind. Make no mistake about it—these groups’ political agenda is to paint President Bush’s fair and qualified nominees as extremists in order to keep them off the federal bench. It has been reported here that a member of this body has accused the President of “loading up the judiciary with right-wingers who want to turn the clock back to the 1980s,” stating that America is under attack from “the hard right, the mean people.” That news report also quoted that same Senator as having said, “They have this sort of little patina of philosophy but underneath it all is meanness, selfishness and narrow-mindedness.”

Now I must stand and defend the character and record of Judge Pickering, who has three daughters and a husband who has traveled far in his personal and professional life. And while the society of which Judge Pickering is a part has changed dramatically, in Charles Pickering we have a nominee with a lifetime record of civic and community service in improving racial relations and enforcing laws protecting civil and constitutional rights.

Judge Pickering’s life story includes an outstanding academic record, an exceptional legal career and a life committed to serving others. He graduated first in his law school class at the University of Mississippi in 1961. While in law school, he was the Law Journal and served as Chairman of the Moot Court Board. Upon graduating, he became a partner in a law firm in Mississippi.

Going forward with this nomination today is fair to Judge Pickering, fair to the Senate, and fair to President Bush. In addition to these procedural complaints, we have heard and will likely continue to hear a recycling of the tired arguments and well-worn parade of horribles—which are horrible in large part because of their gross distortion of Judge Pickering’s upstanding reputation as a man who fervently hopes that opponents of this nomination do not resort to attacks on Judge Pickering based on his personal convictions in an effort to justify their opposition to his nomination. However, I am not alone in this statement. I hope that the unfortunate attack by the extremist abortion group, NARAL, the National Abortion Rights Action League, is any indication. That group, which represents what this debate is truly about, states “Charles Pickering of Mississippi was a founding father of the anti-choice movement, and a clear risk to substitute far-right ideology for common-sense interpretation of the law.”

I reject that characterization, but in any event Judge Pickering’s private views on abortion, like any judicial nominee’s personal views on political issues, are irrelevant to the confirmation decision. Judge Pickering has publicly affirmed in his confirmation hearings that he will follow established law and Supreme Court precedents—even those with which he disagrees. His record as a jurist demonstrates his commitment to the rule of law and his respect for the judges below him in lower courts, including the 5th Circuit, are bound by Roe and by the more recent Supreme Court decision in Planned Parenthood v. Casey.

For the record, in 1976, then-political advocate Charles Pickering joined a long line of famous Democrats and liberals who believed that Roe v. Wade was wrongly decided. Some who shared his view include Byron White, President Kennedy’s appointee to the Supreme Court, Archibald Cox, the special prosecutor investigating President Nixon, and Professor William Van Alstyne, a former board member of the ACLU. But I repeat—Judge Pickering’s political views are less important than his expressed commitment to follow Supreme Court precedent, even precedents with which he may not agree.

It is outrageous that Judge Pickering, who has three daughters and a husband who has been described as a “woman-hater” or “anti-woman.” Indeed, numerous women who know and have worked with Judge Pickering have endorsed his nomination, including civil rights attorney Deborah Ramirez and Deputy U.S. Marshal Melanie Rube.

Unlike some of my friends on the other side of the aisle, I have steadfastly resisted efforts to inject personal ideology into the confirmation process. We have all seen the destructive effects of such tactics on this institution, on the judicial nominations process, and on the nominees themselves. So as we debate the qualifications of Judge Pickering, I want to speak directly to the personal side of individual nominees might be forgotten. By many opponents, Charles Pickering is portrayed as the stereotype of the Southern white male, locked in the thought, culture and traditions of his upbringing in the deep South of yesteryear. This is the caricature they attack, but it is not the reality of who Judge Pickering is. Having lived and raised in the rural South, and although he has remained geographically near his childhood home, Judge Pickering has traveled far in his personal and professional life. And while the society of which Judge Pickering is a part has changed dramatically, in Charles Pickering, we have a nominee with a lifetime record of civic and community service in improving racial relations and enforcing laws protecting civil and constitutional rights.

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Going back to the 1960s, when racial tensions were prevalent throughout Mississippi, Judge Pickering served as City Prosecuting Attorney of Laurel and was elected and served four years as County Prosecuting Attorney of Jones County. During his time as County Attorney, the KKK infiltrated the Woodworkers

leaders. The overwhelming support for Judge Pickering’s nomination from his home state of Mississippi speaks volumes, especially since that support comes from across the political spectrum and from various racial and ethnic groups.

Last month, the Governor of Mississippi and the other Democratic elected statewide officials of Mississippi sent a letter endorsing Judge Pickering stating they believe he should be confirmed. In that letter, they noted that Judge Pickering has worked for racial reconciliation and “helped unify our communities.” They go on to state, “Judge Pickering’s record demonstrates his commitment to equal protection, equal rights and fairness for all. His values demand he respect the law and constitutional precedents and rule accordingly. He does... As a judge, he is consistent in his fairness to everyone, and deemed well qualified by those who independently review his rulings, temperament, and work.”

Unfortunately, there has also been an unjustified campaign against Judge Pickering, driven largely by Washington special interest groups who do not know Judge Pickering and who have an ideological axe to grind. Make no mistake about it—these groups’ political agenda is to paint President Bush’s fair and qualified nominees as extremists in order to keep them off the federal bench. It has been reported here that a member of this body has accused the President of “loading up the judiciary with right-wingers who want to turn the clock back to the 1980s,” stating that America is under attack from “the hard right, the mean people.” That news report also quoted that same Senator as having said, “They have this sort of little patina of philosophy but underneath it all is meanness, selfishness and narrow-mindedness.”

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Union at the Masonite pulpwood plant in Jones County. Klan members beat people, shot into houses, fire bombed homes, and even committed a murder at the Masonite plant. Judge Pickering signed the affidavit supporting the murder conviction of reputed Klansman Dubie Lee for the murder at the Masonite plant. He also testified against the Imperial Wizard of the KKK, Sam Bowers, at a trial for the firebombing death of a civil rights activist personally and professionally for the University of Mississippi and other Democratic organizations and political parties. Allow me to share some of these editorials, articles, and letters to the editor for going easy on first-time criminal defendants.

Judge Pickering now described as a racist or bigot. He stood tall when our terrible national crisis. Judge Pickering continues to support the idea of a ‘life changing experience’ for those who have answered the call to serve. It is true that he consistently displayed. Let me remind you to those who write, ‘I have known Judge Pickering, active in his church and has served many years as a Sunday school teacher, as chairman of the deacons, Sunday school superintendent, and church treasurer.

He has worked with organizations to advance issues that promote equal opportunity for all individuals in his community, church, political party and State. His work with the race relations committee for Jones County and the Institute of Racial Reconciliation at the University of Mississippi are just two examples of his leadership for equal rights in this area. That is why we find such a broad outpouring of support for Judge Pickering across all groups and parties. It is the right thing to do.

I have already mentioned the letter of support from the current Governor of Mississippi and other Democratic state wide officials. Another letter came from William Winter, the former Democratic Governor of Mississippi, who writes, ‘I have known Judge Pickering personally and professionally for all his adult life. I am convinced that he possesses the intellect, the integrity and the humanity to serve in a manner consonant with his qualifications.

I am confident that he will act with fairness, objectivity, and decency.’

Many Senators are familiar with the name Jorge Rangel, who was nominated to the Fifth Circuit by President Clinton. In his letter supporting Judge Pickering’s nomination, Mr. Rangel explains, ‘I first met Judge Pickering in 1990 in my capacity as a member of the ABA’s Standing Committee on the Federal Judiciary. As the Fifth Circuit’s representative on the Committee, I conducted the primary investigation into his professional qualifications when he was nominated to a federal district judgeship in Mississippi. The Charles W. Pickering that I have read about in press reports during the pendency of his nomination does not comport with the Charles W. Pickering that I have come to know in the last thirteen years. Competent, compassionate, sensitive and free from bias are terms that aptly describe him. Attempts to demonize him are both unfortunate, and I would want to decide matters that personally affect me or my family.

Judge Pickering’s record is replete with examples where he has seen the rehabilitative potential of first-time offenders and accordingly sentenced them to lighter sentences. Take, for example, the case of a 20-year-old African-American drug defendant who faced a 5-year mandatory minimum. Judge Pickering reduced that to 30 months and recommended the defendant be allowed to participate in an intensive confinement program, further reducing his sentence.

Another young African-American drug defendant with no previous felony convictions faced a 40-month sentence under the guidelines. Judge Pickering continued his case for a year, placed him under strict supervised home release for 1 year, and then used his good conduct during home release to establish the basis for a downward departure. Judge Pickering ultimately sentenced him to 6 months of home confinement, 5 years probation and no prison time.

A third 20-year-old African-American male faced between 70 and 87 months under the guideline range. Judge Pickering downward departed to 48 months and recommended that he participate in intensive confinement, which further reduced his sentence. The defendant’s lawyer called Judge Pickering’s compassionate sentence a ‘life changing experience’ for this defendant.

In another case, an African-American woman faced a minimum sentence of 188 months. The government made a motion for a downward departure followed by a sentencing guideline range of 220 months to 270 months and recommended the defendant be allowed to participate in a program for a further downward departure. In the end, Judge Pickering reduced her sentence to less than 6 months, sentencing her to 6 months.

The last case I want to discuss is the Barnett case. The Barnett, an interracial couple, were both Judge Pickering, charged with drug crimes. Both were facing sentences between 120 and 150 months but plea bargained with the government for a maximum 5-year sentence. Judge Pickering sentenced Mr. Barnett to the 5 years with but....
Mrs. Barnett, who had Crohn’s disease and was taking care of one of her sick children, he departed downward 22 levels and sentenced her to 12 months of home confinement. At a later time, the government made a motion for a downward

Mr. Barnett later wrote a letter, as she said, out of gratitude for all Judge Pickering did for her and her family. She stated she had learned a valuable lesson, that her family had been brought closer together, and that her husband had changed in many positive ways. She concluded, “I want to thank you for your part in all of this, and I can assure you that your thoughtfulness and just consideration is greatly appreciated and will never be forgotten.”

Thirteen years ago Judge Pickering began his service as a U.S. District Judge. He was unanimously confirmed by the U.S. Senate, which included a good number of members who are still serving in the Senate today, including 25 members of the Democratic caucus. That affirmative vote was well deserved given Judge Pickering’s excellent academic record, his distinguished legal and standing career, and his superb record of public and community service. That record has only been enhanced by his service on the bench.

Judge Pickering deserves an up or down vote on the Senate floor. So I urge my colleagues to use proper standards, consider the entire record, and use a fair process for considering Judge Pickering’s nomination. Those who know him best, Democrats and Republicans, representing a broad cross section of citizens, endorse his nomination. An unbiased consideration of Judge Pickering’s character and experience will lead every fair-minded person that Judge Pickering’s record fully justifies his confirmation to the Fifth Circuit Court of Appeals.

As the President said recently, “The United States Senate must step up to serious constitutional responsibilities. I’ve nominated many distinguished and highly-qualified Americans to fill vacancies on the federal, district and circuit courts. Because a small group of Senators is willfully obstructing the process, some of these nominees have been denied up or down votes for months. More than a third of my nominees for the circuit courts are still awaiting a vote. The needful delays in the system are harming the administration of justice and they are deeply unfair to the nominees, themselves. The Senate Judiciary Committee should give a prompt and fair hearing to every single nominee, and send every nomination to the Senate floor for an up or down vote.”

I agree with President Bush that this obstruction is unfair and harmful. I have taken to the Senate floor on numerous occasions to condemn the tactic of forcing judicial nominees through cloture votes. My position has been the same regardless of whether the nominee was appointed by a Democratic president or a Republican president. I am proud to say that during my nearly 30 years in the Senate, I have never voted against cloture for a judicial nominee, even on the rare occasion that I opposed the nomination and ultimately voted against it. Yet, once again, some Senate Democrats are filibustering another “Well Qualified” nominee—preventing an up-or-down vote, which is supported by a majority of the Senate. This is tyranny of the minority and it is unfair. Senator KENNEDY has asked “What’s the point of pushing yet again for a nominee who probably cannot get enough support to be confirmed because he doesn’t deserve to be confirmed?” With all due respect, I must disagree with the premise of his question. Judge Pickering does deserve to be confirmed, and, if an up-or-down vote were allowed, he would have enough support to be confirmed.

As I have stated before, requiring a supermajority vote on this or any judicial nominee thwarts the Senate from exercising its constitutional duty of advise and consent. The Constitution is clear on this matter; it contemplates that a vote by a simple majority of the Senate will determine the fate of a judicial nominee nothing in the Constitution that gives that power to a minority of 41 Senators.

Furthermore, a supermajority requirement for judicial nominees needlessly injects even more politics into the already over-politicized confirmation process. I believe that there are certain areas that should be designated as off-limits from political activity. The Senate’s role in confirming lifetime-appointed Article III judges—and the underlying principle that the Senate perform that role through the majority vote of its members—is one such issue. Nothing less depends on the recognition of these principles than the continued, unimpaired respect in which the branch of Government—the one branch of Government intended to be above political influence.

Over the past 2 years I have been accused of changing or breaking committee rules and of pushing ideological nominees. The record will show that these charges are without foundation. In fact, it is Senate Democrats that have pushed the notion of injecting ideology into the nomination process and have taken unprecedented steps to oppose judicial nominees.

Opponents are using a variety of tactics to obstruct President Bush’s judicial nominees. Supported by the extreme minority, who themselves use even more shameful tactics to defeat these nominees, we have seen opponents distort the record, make unreasonable demands for privileged information, and force multiple cloture votes. This is all part of the strategy of changing the ground rules on judicial nominations that Senate Democrats have implemented.

I am not the only one who is concerned about the dangerous precedents that some Democrats have established. Before Miguel Estrada, the filibuster was never used to defeat a circuit court nominee. The Washington Post—hardly a bastion of conservatism—warned in a February 5, 2003, editorial that staging a filibuster against a judicial nominee would be “a dramatic escalation of the judicial nomination wars.” The Post urged Democrats to “stand down” on any attempt to deny a vote on the particular judicial nominee, Miguel Estrada. The editorial went on to warn that “a world in which filibusters serve as an active instrument of nomination politics is not one either party should want.” Unfortunately, that prediction came true, as the Senate is now blocked from acting on numerous judicial nominees because of filibusters.

It is not just judicial editorial pages which have denounced the use of the filibuster. In fact, some of my Democratic colleagues have expressed similar views. For example, Senator DURBIN, the Democratic Leader, stated: “Chief Justice Rehnquist has recognized: ‘The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.’ An up or down vote, that is all we ask.”

Similarly, Senator LEAHY, my friend, colleague, and ranking member of the Judiciary Committee said “ . . . I, too, do not want to see the Senate go down a path where a minority of the Senate is determining a judge’s fate on votes of 41.” And Senator KENNEDY, the senior member on the Judiciary Committee stated, “Nominees deserve a vote. If our Republican colleagues don’t like them, vote them away. But don’t just sit on them—that’s obstruction of justice.”

I hope that Judge Pickering’s nomination is not another example of a double standard or a strategy of some of my Democratic colleagues to change the ground rules on judicial nominees. I hope that my Democratic colleagues will exercise the same independence that I did when I joined them to invoke cloture on the nominations of Clinton judicial nominees. Judge Pickering deserves an up-or-down vote, and he deserves to be confirmed.

Mr. President, there are so many other things I could say, but I want to leave enough time for our Mississippi Senators.

Let me just say this. I know Judge Pickering. I have gotten to know him
better through this ordeal he has gone through over the last 2½ years than I ever thought I would. He is a fine man. His family is a fine family. He sent his kids to integrated schools—the first in Mississippi to do so. Out of them now sits in the Congress CHIP PICKERING, who is one of the fine Congress people here, and everybody who knows him knows it.

What they have done to him is awful. It is awful. I think it is time for the Democrats to break free from these rotten outside groups that just play politics on everything and bring everything down to the issue of abortion.

I ask unanimous consent that the relevant material be printed in the Record. There being no objection, the material was ordered to be printed in the Record, as follows:

WATKINS LUDLAM WINTER

DEAR MR. CHAIRMAN: May I have the pleasure of expressing my support of Judge Charles Pickering of Mississippi for service on the Fifth Circuit Court of Appeals.

I have known Judge Pickering personally and professionally for all of his adult life. I am convinced that he possesses the intellect, the integrity and the temperament to serve with distinction on that court. He is wise, compassionate, fair and he is precisely the kind of judge that I would want to decide matters that would personally affect me or my family.

While Judge Pickering and I are members of different political parties and do not hold to the same view of many public issues, I have always respected his fairness, objectivity and decency.

He was a member of the Mississippi State Senate when, as Lieutenant Governor, I presided over that body. I found him to be one of the most diligent, hardest working and most respected legislators with whom I served.

I would single out for special commendation his sensitivity and concern in the area of race relations. I had the privilege of serving as President Clinton's Director of National Advisory Board Race several years ago. One of the impressive initiatives that resulted from the work of that Board was the establishment of the Institute for Racial Reconciliation at the University of Mississippi.

Because of his long-standing commitment to the cause of racial equity and racial reconciliation, Judge Pickering was a leader in the formation of the Institute and served as a founding member of its Advisory Board. As a member of the Mississippi Judiciary for over fifty years and a former Governor of Mississippi, I am pleased to vouch for Judge Pickering as being most worthy of confirmation as a judge of the Fifth Circuit Court of Appeals.

Sincerely,

WILLIAM F. WINTER

Chairman, Judiciary Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

The Honorable Charles Pickering

DEAR MR. CHAIRMAN: Please permit me to express to you my support for the confirmation of the Honorable Charles Pickering of Mississippi for a position on the Fifth Circuit Court of Appeals.

As a former Democratic Governor of Mississippi I have a long-time colleague of Judge Pickering in the legal profession and in the public service, I can vouch for him as one of our state's most respected leaders.

While he and I have not always agreed on certain public issues, I know that he is a man of reason and sound judgment. He is light in his dialogue. He will bring a fair, open and perceptive mind to the consideration of all issues before the court.

I have been particularly impressed with his commitment to racial justice and equity. He and I have worked together for a number of years in the advancement of racial reconciliation in Mississippi. Judge Pickering has been one of this state's most dedicated and effective voices for breaking down racial barriers.

Judge Pickering has demonstrated in every position of leadership which he has held a firm commitment to the maintenance of a just society. I will reflect on those values as a member of the Fifth Circuit Court of Appeals, and I commend him to you as one who in my opinion will be a worthy addition to that body.

Sincerely,

WILLIAM F. WINTER

Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

The Honorable Judge Charles W. Pickering Sr.

DEAR MR. CHAIRMAN: I had the pleasure of meeting with you when my partner Las Vegas Mayor, Oscar B. Goodman and I represented former United States District Court Judge Charles Pickering in the confirmation proceeding in the United States Senate. I remember your open-mindedness and fairness in considering our case.

I am presently on the Board of the National Association of Criminal Defense Lawyers and a registered Democrat. I have been a financial supporter for the election of President William Clinton, his Lieutenant Governor and a contributor to the campaign of Vice-President Albert Gore, when he ran for President. I have been an aggressive advocate on the nation’s behalf and have appeared in criminal proceedings in thirty of our fifty states.

I had the privilege and pleasure of meeting Judge Pickering several years ago when I was hired by the former mayor of Biloxi, Mississippi, Peter J. Halet to represent him in a very complex and high profile federal trial assigned to Judge Pickering in the United States Distict Court in Hattiesburg, Mississippi.

Judge Pickering was quite celebrated and the allegations were of the most serious nature. There were complicated legal questions and difficult human dynamics. Needless to say, the emotions ran high between the parties as well as among the participants. Having arrived in Judge Pickering's courtroom from across the country, I did not know what to expect in terms of my reception.

Sufficient to say, from day-one Judge Pickering treated all of the lawyers I brought with me to assist in the process, my jury expert and myself with courtesy and patience.

Certain tactics and techniques that we utilized may not have been used by other lawyers appearing before Judge Pickering in earlier cases, but he kept an open mind, listened to our position and gave me as a fair trial as I have received in any United States District Court I have ever appeared in.

Judge Pickering had a grasp of the difficult legal issues and addressed the case with objectivity and fairness. At no time during my experience with Judge Pickering, including the jury selection process, did I ever note even a scintilla of evidence that Judge Pickering did not treat every citizen appearing before him in a professional, fair and considerate manner. Based on my experience with Judge Pickering, I am offended that people are attacking his sterling character, I part of citizens who is a local citizen on his behalf and believe he would make an outstanding addition to the United States Court.
of Appeals for the Fifth Circuit, of which I am admitted and have appeared. Very truly yours,

DAVID Z. CHERNOFF, ESQ.

TENTH CHANCERY COURT DISTRICT OF MISSISSIPPI
Hattiesburg, MS.

Re the Appointment of Charles Pickering.

HON. PATRICK LEAHY,
Chairman Senate Judiciary Committee, U.S. Senate, Dirksen Office Building, Washing-ton, DC.

DEAR SENATOR LEAHY: I write in support of the appointment of United States Judge Charles W. Pickering, III to the Fifth Circuit Court of Appeals.Charles Pickering is an able, outstanding and fair minded judge. I could not conceive that he would exhibit gender bias toward women inside or outside a court of law.

As an African American I have personal knowledge and experience of his efforts to heal the wounds of racial prejudice, and to resolve conflicts between the races in our state. As someone who experiences racial prejudice, both open and subtle, I can only say that my admiration for Judge Pickering is immense.

I sincerely appreciate all the efforts made by you and your committee in order to insure that the litigants' rights are protected. Even when I don't prevail, my clients know that they have had "a day in court" before a judge who is open-minded, fair and just and will follow the law without regard to color, economic status or political persuasion.

I have known Judge Pickering prior to his taking the bench and have seen him advocate the rights of the poor and those disenfranchised by the system. Over the past 11 years, I have seen him bring the same passion for fairness and equity to the federal bench.

Though I personally hate to see him leave the Southern District, I am proud to say that his honest and fair play would make him an excellent candidate for the Fifth Circuit Court of Appeals.

Sincerely,

DEBORAH JONES GAMMRELL
HATTIESBURG, MS.

HON. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washing-ton, DC.

DEAR SENATOR LEAHY: I am writing to urge you to confirm Judge Charles Pickering as a Fifth Circuit Court of Appeals Judge. I have had the privilege of working in Judge Pickering's courtroom for the past two years as a Deputy United States Marshal.

Judge Pickering brings honor and compassion to the bench. A center of justice and fairness for men and women of every race and religion. As a Deputy U.S. Marshal, I have been present for most of his courtroom sessions. I am always impressed by Judge Pickering's rulings and opinions. He puts his heart and soul into preparing each case.

I am overwhelmed at the compassion that Judge Pickering shows each and every defendant. He truly cares for the welfare of these defendants and their families. I believe it grieves him to see mothers and fathers separated from their loved ones. As a man of great conviction, I know that Judge Pickering would make a positive impact on the Fifth Circuit.

As a Deputy U.S. Marshal, I am proud to serve under a man who personifies justice. As a citizen of the United States, I am glad to know that times like these we have a Judge Charles Pickering in the position to maintain dignity and responsibility in our courts. As a woman, I am appalled at the thought that we will lose Judge Pickering looking out for the rights of women and children from the beach of the Fifth Circuit Court of Appeals.

Sincerely,

MELANIE RUBE
OXFORD, MS.
October 18, 2001.

Mr. HATCH. Mr. President, I reserve the remainder of my time. I am happy to yield whatever time the distinguished senior Senator from Mississippi desires.

The PRESIDENT pro tempore. The Senator from Mississippi.

Mr. LOTT. Thank you, Mr. President. I thank Senator Hatch. It is a pleasure to serve with my distinguished colleague from Mississippi who will be speaking later today.

Mr. HATCH. Thank you for your leadership, your sensitivity as chairman of the Judiciary Committee, and for your specific help in the confirmation process of Judge Charles Pickering to be on the Fifth Circuit Court of Appeals.

I also want to express appreciation to Senator Frusto, the leader, for giving us time in a very busy schedule to take up
this nomination. But it is time we go forward with a vote on the nomination of this good and honest and very capable Federal judge, Charles Pickering.

Mr. President, as I say, I rise today in strong support of Judge Charles Pickering’s nomination to be a judge on the U.S. Court of Appeals for the Fifth Circuit. I am pleased that this day has finally come, and that after almost 2 1/2 years of waiting, we are finally moving forward with the consideration of Judge Pickering’s nomination here on the floor of the Senate. I am grateful to Senator HATCH for his hard work in leading the Judiciary Committee to its recent approval of Judge Pickering’s nomination to the Fifth Circuit, and this important vote has led to our being able to begin debate on this outstanding nominee.

As many Senators will recall, Judge Pickering was unanimously approved by the Judiciary Committee in the fall of 1999 to be a United States District Court Judge for the Southern District of Mississippi. He was then unanimously confirmed by the full Senate. He has served honorably in this position for 13 years, and I am happy that the President has re-nominated Judge Pickering to the Fifth Circuit after his nomination was blocked from consideration by the full Senate during the 107th Congress.

Charles Pickering and I have known each other for over 40 years, which doesn’t surprise me, and I can personally attest that there is no other person in the State of Mississippi who is more eminently qualified to serve on the Fifth Circuit Court of Appeals. Mr. President, Charles Pickering graduated first in his class from the University of Mississippi Law School in 1961, and received his B.A. degree from Ole Miss with honors in 1959. He practiced law for almost 30 years in Jones County, Mississippi, and during this time he was the prosecuting attorney for Jones County and the City of Laurel during the 1960’s. From 1972 to 1980, Charles served in the Mississippi State Senate. This was a part-time position, with full-time demands I might add, that allowed him to continue his law practice during this period.

Judge Pickering has had an impeccable reputation on the bench in Mississippi, and he is respected by all sectors of Mississippi and the legal community. Scores of attorneys, community leaders, and other Mississippians from all walks of life have applauded his nomination to the Fifth Circuit. What a compliment to Judge Pickering, Mr. President, for him to have the support of those who know him best—the people he works with in his professional life and spends time with in his personal endeavors. It is no surprise that the ABA’s Standing Committee on the Federal Judiciary found him “Well-Qualified,” for appointment as a Fifth Circuit judge.

Furthermore, he is highly respected within the federal judiciary. He served on the Board of Directors of the Federal Judges Association from 1997 until 2001, and was a member of the Executive Committee for the final 2 years of his term. He recently completed a term of service on the Judicial Branch Committee of the Judicial Conference of the United States.

Judge Pickering has been involved in numerous community and public service endeavors. He has headed the March of Dimes campaign in Jones County, in Mississippi, and served as Chairman of the Jones County Chapter of the American National Red Cross. He was also a major participant in the formation of the Jones County Economic Development Authority, serving as its first chairman.

Charles Pickering has been a leader in his community and in the state on race relations, and in standing up for what is right. In 1967, at the risk of harm to himself and his family, he testified against the Imperial Wizard of the KKK for the bombing death of civil rights activist Vernon Dahmer. He was active in his community’s efforts to integrate their public schools, sending all four of his children to the integrated schools. In 1981, he reported an African American man falsely accused of robbing a white teen-aged girl. Although his decision to provide this legal representation was not supported by some in his community, he aggressively represented the woman who was found not guilty. He was a motivating force behind and currently serves on the Board of Directors of the William Winter Institute for Racial Reconciliation at the University of Mississippi, our mutual alma mater.

He has also volunteered for the Jones County Heart Fund, the Jones County Drug Education Council, and the Economic Development Authority of Jones County. He has always been very active in his church, serving in his church, serving as a Sunday school teacher, Chairman of the Deacons, Sunday school superintendent, and church treasurer. From 1983-85, he was the President of the Mississippi Baptist Convention.

In addition to his many professional and civic activities, Charles Pickering has also been a good farmer. He was the first president of the National Catfish Farmers Association and was a leader in catfish farming during its infancy. Enough said, but even more, is the fact that Charles has always put his family first, even with the commitments I have just described. He has a wonderful wife and four grown children with spouses and families of their own, including his son, Congressman Chip Pickering, who is a former member of my staff. Representative Pickering’s integrity is a further testament to the caliber of Judge Charles Pickering’s character.

Mr. President, I am pleased that the Senate is considering this important nomination today, because the Senate needs to act now to confirm Judge Pickering. He is exceptionally well-qualified for elevation to the Fifth Circuit, and I strongly endorse his nomination. He has been waiting far, far too long for a debate and vote on his nomination. I urge my colleagues to support moving forward with an up-or-down vote on this important nomination. I know that Judge Pickering’s elevation to the Fifth Circuit is supported by a majority of Senators, and it is time for this majority to be heard.

I’ve said, he has been waiting 2 1/2 years in this process. Unfortunately, last year he was defeated on a party-line vote and prevented from being reported out of the Judiciary Committee. But this year he was reported to the floor. He deserves to have his story told, and even a vote to occur on his nomination.

I have known this man and his family and his neighbors, the people in his church, the school officials, the minority groups in his community for over 40 years.

I think there used to be a time when a Senator vouched for a person, a nominee from his State, and it carried weight. I am here to tell you, this is one of the finest men, one of the finest family men, one of the smartest individuals, one of the best judges I have known in my life. There is no question that he has the educational background, the qualifications, the experience, the judicial demeanor, and also the leadership to bring about unity, not division.

That has been the story of his life. He has always been a unifier. He has always been willing to step up and take on the tough battles in his home county and in our State of Mississippi.

Senator HATCH made reference to the fact that when he was county attorney, years ago, in the late 1960s he had the courage to actually work with the FBI and to testify against the Imperial Wizard of the Ku Klux Klan, something not very healthy for your political career or even your life at the time. But he did it, he stood and was defeated for re-election, to a large degree because of that.

He continued to work in his community and provide leadership. He practiced law for 30 years. If you want to look at his qualifications, here they are listed. He was not just an average student. He graduated first in his class from law school. He graduated from undergraduate school with honors. He has the highest rating by Martindale Hubbell. He was unanimously confirmed by the Senate to be a district judge. He has been very good in his rulings. In fact, of those that were appealed, the reversal rate is only 7.9 percent, which is extraordinarily good. He is rated by the American Bar Association—not once but twice—their highest rating of well qualified. They looked into allegations that were made against him after his first consideration by the committee and came back with a vote that was still unopposed—not a group known for dismissing allegations or charges that were made against him.

that needs to act now to confirm Judge Pickering. He is exceptionally well-
JUDGE PICKERING—SENATE SHOULD CONFIRM

October 30, 2003

He certainly has the qualifications and the experience. In his community, he is endorsed by Democrats and Republicans, elected officials of both parties, the head of the local NAACP. The people who know him best, who know his family, who see him every day, say this man is qualified to sit on the Fifth Circuit Court of Appeals.

He has served on the Federal bench for 13 years. He is highly respected within the Federal judiciary. In fact, he has served in a leadership capacity there. He has been on the board of directors of the Federal Judges Association from 1997 to 2001, and he was on the executive committee for the final 2 years of his term. He recently completed a term of service on the Judicial Branch Committee of the Judicial Conference. He is respected by his fellow judges.

I know some of the Senators on both sides of the aisle have had Federal judges in their States also vouch for this man to be on the Fifth Circuit Court of Appeals.

He has had letters of endorsement from a wide span of community leaders and State leaders in our State, including all five statewide elected Democrats.

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:

STATE OF MISSISSIPPI,
OFFICE OF THE GOVERNOR,

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Dirksen Senate Office Bldg., Washington, DC.

Hon. THOMAS DASCHLE,
Minority Leader, U.S. Senate, Hart Senate Office Bldg., Washington, DC.

DEAR SENATORS FRIST AND DASCHLE: The nomination of Federal District Judge Charles Pickering to the U.S. Fifth Circuit Court of Appeals is once again coming before the U.S. Senate in Washington for consideration. We are the Democratic statewide officials of Mississippi.

We know Charles Pickering personally and have known him for many years. We believe Judge Pickering should be confirmed for this appointment and serve on that court.

Judge Pickering chose to take stands during his career that were difficult and often courageous. He has worked for racial reconciliation and helped unify our community. Toward that objective, he formed a biracial commission in his home county to address community issues and led an effort to start a preschool for at-risk youth. Furthermore, Judge Pickering helped establish and serves on the board of the Institute for Racial Reconciliation at the University of Mississippi.

We are all active Democrats. Charles Pickering was, before rising to the Federal bench, an active Republican. It is our hope that Party labels can be transcended in this fight over his nomination. We should cast a blind eye to partisanship when working to build a fair and impartial judiciary.

There is a chance to demonstrate a commitment to fairness. Judge Pickering’s record demonstrates his commitment to equal protection, equal rights and fairness. Republicans demand he respect the law and constitutional precedents and rule accordingly. He does.

He has never been reversed on any substantive issue in a voting rights or employment discrimination case that has come before him. His rulings reflect his support for the principle of holding one vote. Judge Pickering ruled the 1991 Mississippi legislation redistricting plan unconstitutional for failing to conform to one man one vote standards and ordered a new election as the remedy.

In 1963, at the age of 26, Judge Pickering was elected Prosecuting Attorney of Jones County. While holding this office he confronted the effects of racial hatred and saw firsthand its result in the form of extensive Ku Klux Klan violence. It was a horrible time in Mississippi. Judge Pickering took a public stand against the Klan violence and terrorism. He worked with the FBI to prosecute and stop the Klan. Charles Pickering testified against the Klan leader Sam Bowers in the murder of civil rights activist Vernon Dahmer.

In the 1960’s Charles Pickering stood up for the voting rights of African Americans, and for the equal protection of all. In the 1970’s and 1980’s he led his community, his children’s school, and his church in integration and inclusion. Today, he is a voice for racial reconciliation across our state. As a judge, he is consistent in his fairness to everyone and has been well qualified by those who independently review his rulings, temperament and work.

Mississippi has made tremendous progress in race relations since the 1960’s and Charles Pickering has been part of that progress. We ask the United States Senate to stand up to those that malign the character of Charles Pickering, and give him an up or down vote on the Senate Floor.

Very truly yours,
RONNIE MUSGROVE,
Governor of Mississippi.

ERIC CLARK,
Attorney General.

LESTER SPELL,
Commissioner of Agriculture and Commerce.

GEORGE DALE,
Commissioner of Insurance.

Mr. LOTT. I have other letters of endorsement and articles supporting Judge Charles Pickering, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From: Representative Phillip West, Chairman.
Date: April 25, 2003.
Re: Judge Charles Pickering.

POSITION STATEMENT ON JUDGE CHARLES PICKERING

After having listened to Judge Charles Pickering during hearings along with the Mississippi Legislative Black Caucus, reviewed materials concerning Judge Pickering’s record as a Jones County attorney, and spoken with some of the 12 members of the Institute of Racial Reconciliation, I have decided to reverse my position regarding Judge Pickering’s nomination to the Fifth Circuit Court of Appeals.

When I originally signed the petition against his nomination I was not aware of the information that has subsequently come to my attention and public release. It was a clear and convincing argument. Now I am not certain that the ammunition on him is as powerful and as convincing as I was led to believe. I certainly do not believe Judge Pickering is presently a “racist”.

Judge Pickering’s record of working with both races and working for racial reconciliation in past and present years is beyond what many whites have we supported and we have shown the determination of leadership have done in our state.

While I do not condemn and judge all white men and women to be “racist”, I do believe many have racist tendencies and beliefs as evidenced by the racism instilled in many of our institutions. At least Judge Pickering has demonstrated a will to work for racial reconciliation prior to his consideration for the Fifth Circuit Court of Appeals position.

I hope and pray understanding of the need for racial reconciliation by Judge Pickering will help strengthen the Fifth Circuit’s fortitude in resolving racial issues and concerns in a spirit that God directs.

I recognize different people can review the same facts and reach different conclusions. I respect their right, for “Beauty is in the eyes of the beholder.”

It would also be “Politically Correct” for me to remain silent. However, I cannot support a nomination that may be “Politically Correct” but I feel is “Morally Wrong”. I truly believe we all should embrace truth, justice, and fairness whether we are black or white, rich or poor, democrats or republicans. Our state needs it. Our children deserve it.

AMERICAN BAR ASSOCIATION,
Houston, TX, February 10, 2003.

Re Charles W. Pickering, Sr., United States Court of Appeals, Fifth Circuit.

Dear Senator Leahy:
The purpose of this letter is to confirm the recommendation of this Committee previously given as to the nomination of Charles W. Pickering, Sr. for appointment as Judge of the United States Court of Appeals, Fifth Circuit.

A substantial majority of our Committee is of the opinion that Charles W. Pickering, Sr. is Well Qualified and a minority of the Committee is of the opinion that Charles W. Pickering, Sr. is Qualified for this appointment.

A copy of this letter has been sent to Charles W. Pickering, Sr. for his information.

Yours very truly,
CAROL E. DINKINS,
Chair.

[From the Clarion-Ledger, Mar. 9, 2003]

JUDGE PICKERING—SENATE SHOULD CONFIRM Nomination

As outlined on the front of The Clarion-Ledger’s Perspective section today, the almost two-year-old circus that has become the nomination of U.S. District Judge Charles Pickering Sr. to the 5th U.S. Circuit Court of Appeals has been based allegations that Judge Pickering is a racist.

This is not true and is very unfair to Pickering.

A throng of special interest groups—including some reputable ones—has opposed President Bush’s nomination of Pickering on the basis of that charge of longstanding career racism by the Laurel jurist.

Trouble is, the color and the political faces in the Senate that depend upon the support of them, have failed to make a credible case against Pickering on the racism charge.

Pickering is a what conservative Republican judge who is a devout Christian and a
Thank you for being a human being and for caring what happens to other human beings. I am especially mindful of your commitment to racial reconciliation over the past twenty years. Because of this commitment, our future looks better.

I'll contact you regarding the developments at the retreat around the 15th of November. My best to you.

Sincerely yours,
Constance Slaughter-Harvey.

[From the Atlanta Journal-Constitution, Mar. 9, 2003]

**TRIALS OF A SOUTHERN JUDGE**

**EVIDENCE DOESN'T SUPPORT CHARGES OF RACISM AGAINST PICKERING**

(By Janita Poe and Tom Baxter)

When court is not in session, Deborah Gambrell and U.S. District Judge Charles W. Pickering often hole up with other lawyers in a courthouse anteroom—and debate the law.

They're there to schedule trials or sentencings. But Gambrell, a liberal African-American lawyer, and Pickering, a conservative white judge, invariably fall into spirited exchanges on legal issues and philosophies.

"We've had debates over everything from Clarence Thomas to the details of some case," Gambrell said. "Judge Pickering is a conservative, so you can see your opinion. And he's amenable to having his mind changed, too."

Gambrell said the racial bias in the judge. On the contrary, she said, he appoints motivated lawyers such as her to represent workers—many of them black—who claim they were wronged by employers. "He loves the law and wants you to represent your client well," Gambrell said, "and I don't think that's discriminatory."

Strange as it sounds, Gambrell is talking about the same Charles Pickering who made headlines last year as a reputed old-line Southern bigot. The liberal lobbying group People for the American Way, for example, claims Pickering is "hostile to civil rights."

NAACP Chairman Julian Bond says Pickering uses "a racial lens to look at America."

Pickering drew the criticism after President Bush nominated him for a job on the New Orleans-based 5th U.S. Circuit Court of Appeals, the second highest court in the nation. A Senate committee controlled by Democrats, heeding complaints about the judge's racial views, rejected him.

With the Senate now in Republican hands, Bush has renominated Pickering, prompting new Democratic charges that Republicans, even after the Trent Lott flap, are catering to racist Southern whites.

In Mississippi, however, many describe a different man than the one feared and vilified by critics inside the Beltway. Rather, their up-close description of Pickering is that he is a relative progressive on race, a man who in the 1980s, when much of Mississippi was still fighting efforts to kill Jim Crow, testified against a murderous Ku Klux Klansman. He is a parent who, despite a poisonous racial atmosphere around Laurel, bucked white flight to send his four children to newly integrated public schools.

Pickering has been excoriated for seeking a lighter sentence for a white man convicted in a cross burning (see related story). But he also sought reduced sentences for many black first offenders. He has pushed to establish a racial reading room at the University of Mississippi, his alma mater. And, both on the bench and off, he has pressed white prison officials to ensure the rights of black inmates.

The judge's record is not spotless on race. In the infamous cross-burning case, he worked aloud about how a tough sentence would play in the community—apparently the white community.

And as a law student in 1958, he published a paper laying out a strategy for maintaining a ban on mixed-race marriages in Mississippi.

Yet these are two exceptions, the second more than four decades old, and otherwise surprisingly upstanding history on race.

Pickering will not comment publicly, pending Senate action on his nomination, which is expected this month or next.

**ROOTS: RELIGION AND RACE**

Pickering, the son of a Laurel dairy farmer, has always stayed close to his south-central Mississippi roots. The New Orleans-based appeals court job would be his first post outside Mississippi.

A land of bayous and pine trees, the region around Laurel and Hattiesburg is a place where people take their religion seriously. Methodist and Baptist churches line the main streets; even today, when much of the Bible Belt has succumbed to secularism, day care centers are named “River of Life” and “Alpha Christian.”

Pickering is a 42-year member at First Baptist Church of Laurel, where he has been a deacon, a Sunday school teacher and church treasurer. In the mid-’80s, he was president of the Southern Baptists in Mississippi and was allied with the “moderates,” who maintain that theology is the word of God and its accounts are factual.

Racism once had as strong grip on the region as religion, and Pickering was reared in a period of open segregation. Apart from his checkout job, the upbringing has lent some credibility to critics’ charges.

Martin Hussey, a 75-year-old civil rights activist who lived next to the Pickering farm, recalls playing hosscatch and marbles with Pickering and several children of black sharecroppers who lived nearby. But the black kids attended a different school.

“We got on our bus and went to our school, and they got on their bus and went to theirs,” she said. “I think the South accepted those things when other areas of the country did not.”

Pickering’s 1969 paper on “miscegenation,” or interracial marriage, reflects that acceptance. In the article, which was based on a case of that era, Pickering suggests that Mississippi lawmakers could strengthen the state’s anti-miscegenation legal challenges by reviewing similar laws in 23 other states. Pickering published the article in the Mississippi Law Journal, where he was a staff writer.

The judge’s son, U.S. Rep. “Chip” Pickering, 39, explains the article as nothing more than an assigned “exercise” in which students “assessed laws on interracial marriage and told why the Mississippi law was struck down.”

The congressman’s account, however, does not convey the tone of the brief. The article did not simply analyze problems with the law, but suggested how it could better withstand court challenges. As People for the American Way points out, Pickering “expressed no moral outrage over laws prohibiting and criminalizing interracial marriage” but instead calmly offered a strategy for maintaining a ban—as if the law were as ethically neutral as, say, restrictions on double-parking.

Elsewhere, by the 1960s, people inside and outside the state were beginning to question Mississippi’s adherence to Jim Crow structures. In 1955, Pickering’s junior college near Laurel achieved a breakthrough of sorts by enrolling one all-white freshman—to be a national championship, decided to play an integrated squad from California despite
protests from the state’s racist establishment.

In 1962, as Pickering started his law practice, the Federal government forced the University of Mississippi to admit James Meredith, a black Air Force veteran. Students and locals responded by staging a riot that killed two people and injured hundreds. And not everyone was neutral. Laurel, a rougher place to begin with, became a flash point of racial and class tensions. "He was pretty lonely back then," Clark said. "It was pretty lonely back then," Clark said.

Laurel, was home to a man who combined fervor for both Christianity and apartheid to produce a viciousraging holy war in defense of the status quo. In 1966, Sam Bowers, the Scripture-quoting imperial wizard of the White Knights of the Ku Klux Klan and the Klan organizer who recruited members from the 4,000 workers at the town's big Masonite plant. The toxic atmosphere soon prompted with a chance to depart Mississippi's well-worn racial path.

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Pickering lost a race for a State House seat later that year. Bowers—who trial ended in a hung jury and who was not convicted until 1966—took credit for beating him.

**REPUBLICAN POLITICS**

Like many Mississippians of his generation, Pickering began political life as a Democrat and switched to the GOP. He did so, however, before the party had become a haven for Southern whites disaffected with the national Democrats' liberal racial policies.

Pickering changed parties in 1964, a time when Mississippi's Democratic leadership stood for continued segregation. Most notoriously, in the Senate, Sen. Ross Barnett personally turned Meredith away from Ole Miss and helped provoke the later rioting. The Mississippi Democratic establishment, in the Senate, sent a delegation to the 1964 national convention and was denied seating.

Pickering disregarded white criticism to make alliances with black people, Thomas said. "When things were changing in the 60’s and 70’s, he always tried to reach a compromise. He was always trying to understand the thinking and concerns of the black community," Thomas said. "He was about to do it, not by himself, but he was about to do it."

Melvin Mck, a black county supervisor, grew up about four miles from Laurel. He has seen him at dozens of black gatherings. Pickering may have been reared in an era when white criticism to make alliances with black people, Thomas said. "When things were changing in the 60’s and 70’s, he always tried to reach a compromise. He was always trying to understand the thinking and concerns of the black community," Thomas said. "He was about to do it, not by himself, but he was about to do it."
from the bench and other times, when evidence did not fully substantiate the abuse, worked informally. Pickering “will call me afterward and ask that we look into what is going on,” said Vines, now a general counsel for the State Corrections Department.

In one case, such informal intervention led to the dismissal of charges. “…Judge Pickering was the only white leader we could get to stand up against the guards and the penal system,” said a local civic activist, who spoke on condition of anonymity. “They were people he had known for 30 years, former college friends, law school friends, people he practiced law with. It was in the aftermath of the anthrax attack here on the Capitol. The only way he could make sure the letters got to the Judiciary Committee in a timely way was to send them himself. The allegation that there was something inappropriate about that is totally baseless, and it is just the type of thing that has been used against him.”

“Mr. LOTT. One of the criticisms was, well, the Judge was the intermediary in sending some of the letters of support. I am not going to belabor the point, but as a matter of fact, I have the list of who wrote. They were people he had known for 30 years, former college friends, law school friends, people he practiced law with. It was the first time I saw his son—now a district court judge. At least give him a direct vote. Or if we have to have a vote on cloture, vote to invoke cloture, and let’s move this nomination forward.”

Mr. HATCH. Mr. President, how much time remains?

There is a real fear developing here in this institution, institutionally and individually. We have to dance it or it is going to demean us as individuals and the institution. We have to stop it. This is the place to do it. This man should be confirmed for the Fifth Circuit Court of Appeals.

Mr. HATCH. Mr. President, how much time remains?

The PRESIDENT pro tempore. The Senate has 11 minutes 9 seconds.

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Yet allegations of bigotry have hurt the judge firing at least two court employees. The judge said he had been involved. He helped bring his kids to the school’s graduation. His kids went to the public schools. The first time I saw his son—now a lawmaker—CHIP PICKERING, was playing linebacker for the football team for the Laurel Tornadoes, R. H. Williams High School, Laurel, Mississippi. He was a great athlete on a team that was probably 80 percent African American. They have always been willing to take a stand.

Mr. PICKERING who has labored valiantly to provide them with a roof over their heads for years, President Melvin Cooper said, so Pickering—a conservative white—is the right choice. “I think he would be a great [appeals court] judge. I just don’t know why he would want to go through this process again.”

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Mr. HATCH. Mr. President, how much time remains?

The PRESIDENT pro tempore. The Senate has 11 minutes 9 seconds.
Mr. MILLER. Mr. President, I rise today to talk about a good and brave man from the State of Mississippi, Judge Charles Pickering. I also rise today to talk about a judicial nominating process that is badly broken and out of control. Judge Charles Pickering has become the victim of baseless insinuations, falsehoods, and unrelenting pressure in an effort to sustain the political goal of political correctness, and that's truly sad. These good people's character have been smeared, their good name besmirched. The special interest groups that have taken this nomination hostage and those in this body who have aided and abetted their doing so.

Speaking of lynching mobs, my all-time favorite movie is "To Kill a Mockingbird." In the movie's key scene, you remember a wayward lawyer, a lawyer who is raising two small children, is defending a black man unjustly accused of rape. That lynch mob also tries to take justice into its own hands. Atticus confronts them at the jailhouse door. His daughter Scout joins him and sees that the leader of the mob is someone she knows. She calls to him by name: Hey, Mr. Cunningham. Remember me? You are Walter's daddy. Walter is a good boy. Tell him I said hello.

After a dramatic pause, Mr. Cunningham turns away and says to the mob: Let's go home, boys. This group, bent on injustice, was turned aside by a small girl who appealed to individuals. My friends in this Chamber, I know you, and I appeal to each of you as individuals, as fathers, mothers, colleagues and friends. Most of you were taught in Sunday school to do unto others as you would have them do unto you. This is not treating someone as you would want to be treated yourself. This extreme partisanship and deliberately planned obstructionism has gone on long enough in this body. I wish we could do away with the 60-vote rule that lets a small minority rule this Chamber and defeat the majority, reversing the rule of free government everywhere; everywhere, that is, except in the Senate.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. MILLER. I hope we can have an up-or-down vote—just an up-or-down vote, Mr. President.

The PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, how much time remains?

Mr. CHAMBLISS. Mr. President, I yield 2 minutes to the distinguished Senator from Georgia, Mr. Chambliss.

Mr. CHAMBLISS. Mr. President, I appreciate the chairman's strong leadership on this issue. I rise in the strong support of the nomination of Charles Pickering to the Fifth Circuit Court of Appeals.

I want to say, first, that I appreciate the honesty, the integrity, and the forthrightness of my colleague from Georgia on every issue, but particularly on this issue. He has been very much out front, and this Senator greatly appreciates his attitude and his dedication to ensuring that quality judges are confirmed to every circuit of the United States and every district of the Federal bench.

I rise with some special appreciation for Judge Pickering's nomination because he is nominated to the Fifth Circuit Court of Appeals.

In 1969, when this Senator became a member of the Georgia bar, Georgia was a member of the Fifth Circuit. So I have been a member of the Fifth Circuit bar since my early days. The Fifth Circuit was created in 1980. We split off at that time, so I no longer argue cases on a regular basis in the Fifth Circuit.
The Fifth Circuit has been very blessed with a number of great judges. Look at the judges who came from difficult times, such as my very good friend Judge Griffin Bell who, after serving as a member of the Fifth Circuit, went on to be Attorney General; Elbert Tuttle, Judge Frank Johnson, and many number of judges such as these judges at the district court level—Judge W.A. Bootle. These individuals came through very difficult times and distinguished themselves as judges.

Judge Charles Pickering came through that same very difficult time in the South, a time in the South when race was a very critical and the most forthright issue. Charles Pickering looked the racial issue in the eye and provided the kind of leadership of which every American would be very proud.

As we now consider his nomination to the Fifth Circuit Court of Appeals, I could not be prouder of any individual than I am about the nomination of Charles Pickering. I am going to have a lot more to say about this, but today we have the opportunity to bring this nomination to an up-or-down vote.

I encourage all of my colleagues to give Judge Pickering a vote on the floor of the Senate. Let’s put this good man, this good judge on the Fifth Circuit.

The PRESIDING OFFICER. Mr. SUNUNU. The Senator’s time has expired.

Mr. HATCH. I yield the remainder of my time to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. ALEXANDER. May I ask for 10 minutes?

Mr. LEAHY. That is with an equal amount of time added to this side.

Mr. ALEXANDER. May I ask for 10 minutes?

Mr. LEAHY. Would the Senator like equal amount of time added to this side.

Mr. ALEXANDER. May I ask for 10 minutes?

Mr. LEAHY. That is with an equal amount of time added to this side.

Mr. HATCH. We have no objection.

The PRESIDING OFFICER. It will be approximately 55 minutes from now. Mr. ALEXANDER. Mr. President, I thank the Senator from Vermont and the Senator from Utah for their generosity.

Let me remake my first point. I care about this case because I care about the Fifth Circuit Court of Appeals. Many of the Senators know or knew Judge John Minor Wisdom. They knew what a great judge he was. They knew what the times were like in the Deep South during the 1960s and 1970s. I remember Judge Wisdom once telling me the Ku Klux Klan had burned a cross in the intersection because of the Mississippi man Hale Boggs. Judge Wisdom said: They were getting both of us with one cross burning.

So I set out some time ago, with my staff, to look through the record of Judge Pickering to see what he has done. All the evidence is that Judge Pickering, like Judge Wisdom, like Judge Tuttle, Judge Rives, and Judge Brown, stuck his neck out for civil rights at a time when it was hardest to do. Mississippians know that.

William Winter, with whom I served, a leading former Democrat Governor, a leader for racial justice, strongly supports Judge Pickering. Frank Hunger, who served on that court with him as a law clerk back in the 1960s, President Clinton’s Deputy Attorney General, Al Gore’s brother-in-law, strongly supports Judge Pickering. I have lived in the South for a long time, about the same amount of time as Judge Pickering. I have learned to tell those who are racists, those who stood silently by, and those who stuck their necks out.

Let me invite my colleagues to go back with me to Mississippi, to the late 1960s. James Meredith had become the only Black to graduate from the undergraduate school at Ole Miss. Reuben Anderson, who has endorsed Judge Pickering, had become the first Black graduate of the Ole Miss Law School.

In Nashville, where I went to school at Vanderbilt, the first integrated class had just graduated from Vanderbilt University. Robert Clark became the first black elected to the Mississippi Legislature since the Reconstruction. It was not until 1968, that the first blacks were permitted to participate in intercollegiate athletics at the University of Florida and Georgia and Tennessee and other Southeastern Conference schools.

The law had changed but there were still plenty of “colored only” signs on restroom doors in plenty old southern cities during the late 1960s. Martin Luther King was murdered in Memphis during 1968. Alabama Governor George Wallace won the Democratic primary for president in 1976 in Mississippi, and in Boston, Massachusetts.
Perhaps my colleagues saw the movie, “Mississippi Burning.” That was about events during 1967 in Mississippi. Civil rights workers Goodman, Schwerner, and Chaney were murdered. They were picked up by three carloads of Klansmen and their bodies were buried in a 15-foot earthen dam. In 1967, seven men were convicted of federal conspiracy charges, eight were acquitted and three received mistrials.

At the time, the state of Mississippi refused to try the murderers. To this day, no one has ever been tried for those murders.

Wes Pruden, a young reporter at the time, told me he went to a Mississippi courtroom and everybody in the courtroom assumed the judge had a butternut that said “Never” That was the environment in which Charles Pickering was living in Laurel, Mississippi in Jones County in the late 1960s.

Black children were sent to serve on juries. A few Blacks voted. Schools were being desegregated one grade at a time starting with the lower grades so that older children would have less opportunity to interact socially. Race was not the issue that was pivotal issue in the late sixties, or even a political issue. People were killing people based on race in the late 1960s in Jones County, MS.

The White Citizens Council, a group of white collar, non-violent segregationists was the country club version of resistance to integration in Laurel. Klan members were known at that time in Laurel for putting on their white robes, building a bonfire in a pasture, crossing a sword and a gun over a Bible, and proceeding to burn down the home of a black person. The KKK in Laurel shot into homes and beat blacks over the head with baseball bats. One did not speak out rightly against the Klan because its members could very well be your neighbor or your co-worker.

The Klan infiltrated law enforcement departments and juries. The Klan put out lists of black residents not to cooperate with the FBI on cases.

Laurel was Klan territory. It was the home of Sam Bowers. Bowers had created the White Knights of the Ku Klux Klan because he believed that the regular KKK was not violent enough. The Klan was out to resist integration, but that was not enough for Sam Bowers. The White Knights set out to oppose racial integration “by any means necessary.”

Since 9/11 we have heard a lot of talk about terrorists. This is not the first time we have seen terrorists in America. We had terrorists then. Sam Bowers and the White Knights of the Ku Klux Klan in Laurel, MS. were the terrorists of the 1960s. The FBI said the White Knights were responsible for at least 10 killings then. The Times of London said Bowers himself was suspected of orchestrating the bombing of Hoover Dam.

According to the Baton Rouge Advocate, Sam Bowers was “America’s most violent living racist.”
and torture of Lawrence Byrd. The FBI men stood in the bushes out of sight and directed Byrd’s statements while Watkins tortured Byrd. This was the confession which resulted in the trial of a few or so innocent white men in the Dahmer case.

At first, it seemed that the evil plot of the FBI was in process. West was giving them massive doses of propaganda in order to convince the men before the ever entered the courtroom and to the general public they were looking like the American’s Little Amigos. But there was a cloud on the horizon. The plot started coming to pieces when Strickland was arrested on a drunk charge early in 1967 by FBI Chieftan K. Moore, was getting worried about Strickland, as was Ford O’Neil. They wanted him to stay out of Jones County until after the Dahmer trial. Strickland was laying everything by coming back to Jones County at frequent intervals and going on drinking sprees. All during 1966 rumors had been circulating that Strickland knew something about the Lawrence Byrd kidnap-torture, and there was an ever-present danger that Strickland might reveal the whole thing to the wrong person during one of his binges. Roy K. Moore could not rest easy as long as Roy Strickland was in Jones County, whether or in out of jail, but it was finally agreed that it was best to have him in jail, and try to ease him off to Parchman, even if it meant double crossing him.

However, Strickland began to realize that the FBI was desperately trying to suppress everybody, and then betray everybody for the sole benefit and advancement of the FBI. Strickland decided to tell the truth and take his chances in open court. He contacted the defense attorneys in the Dahmer case and gave them the full facts about the FBI-engineered torture of Lawrence Byrd. This, and much other supporting evidence was turned over to Chet Dillard in order to obtain a just indictment for kidnap-torture of Lawrence Byrd in January of 1966 in Laurel, but they will not bring these facts before the Grand Jury. The facts show the following:

1. Lawrence Byrd was kidnapped and tortured by the unconstitutional national police bureaucracy? Are you going to do your duty or are you going to try to continue to try and confuse, mislead and manipulate the Grand Jury?

2. Why were Dillard and Pickering so anxious to get a confession out of Lawrence Byrd, a few hundred dollars, yet so reluctant to indict the F.B.I. criminals who are stealing the life and liberty of the whole country. Which way is the money moving now?

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, HATTIESBURG, MISSISSIPPI

Sam Bowers, Katie Perrone, Michelle O’Hara, Jeff R rexroad, and Shawn O’Hara (Plaintiffs), vs. Mike Moore and the State of Mississippi (Defendants).

COMES now Shawn Richard O’Hara, on his behalf, and on the behalf of Sam Bowers, Michelle O’Hara, and Jeff R exroad, asking that both Judge Charles Pickering and the honorable magistrate hold this civil action to remove them as a result of some or all of the reasons listed below.

1. Both men live in Mississippi and cannot face this case, since both claim Mississippi has no legal state constituiion, thus meaning that if either of the said judge or magistrate was licensed to practice law in said state, since there is, and was no legal state constitution, said judge and/or magistrate may not be legally licensed to practice law.

2. Specifically Judge Pickering has personally prejudiced himself against Sam Bowers by testifying against him in one of Mr. Bower’s state hearing, saying Sam Bowers was an “undesirable individual.”

3. Specifically Judge Pickering has prejudiced himself against Shawn O’Hara, by tainting this court document, and cannot prove Shawn O’Hara has ever filed four frivolous federal lawsuits. Therefore, the said judge has openly, intentionally, and unfairly lied against Shawn O’Hara, even though the Judge says “thou shall not lie.” (See Exhibit A.)

In conclusion, since both Judge Charles Pickering and the honorable magistrate both claim Mississippi constitution is asserted to be illegal, and because both men work together, and because Shawn O’Hara is asserting Judge Charles Pickering has been an unfair judge hearing this matter, and that the said judge will never be a fair judge in a case which Sam Bowers and/or Shawn O’Hara is a part of, both, or any court file, and the federal court’s magistrate are asked to remove himself from said case.

CONCLUSION

It is prayerfully requested of this court, that a new federal court judge, and magistrate be appointed from a northern state, or from a western state, since a southern judge will not fairly hear the issues that the State of Mississippi wishes to litigate, and there is no state constitution of 1890, which all state officials are asked to swear to, and uphold it, even though it was never ratified, voted on by the people, and is illegal.

Respectfully submitted: on behalf of Shawn Richard O’Hara, Sam Bowers, Michelle O’Hara, and Jeff R exroad.

October 30, 2003

CONESSIONAL RECORD — SENATE

AND TRESSES Pickering was defeated in his personal race for federal office against Thad Cochran, because

should realize that Public Service in America requires a Personal Sacrifice on the part of the officeholder, and that the purpose of Law in America, is Equal Justice, rather than the protection of official Bureaucratic Criminals.

Whatever his past, Roy Strickland was working on an honest job when the FBI enticed him to lie to the jurors about Lawrence Byrd. Whether or no he stole the car? He is charged with, there is little or no real evidence against him in any of them to establish his guilt. But most of all the whole business is that he is being persecuted by Chet Dillard not for car theft, or contempt, or perjury, but because he told the Truth about the kidnap-torture of Lawrence Byrd. Thanks to the Infinite Mercy of the Heavenly Father, the people of Jones County understand the purpose of the Law better than their Public Officials. We respectfully invite the loyal citizens of Jones County to return to the polls on Aug. 8, 1967, and have Then and There this WRIT.

[From the Citizen Patriot]

In times past, this publication has repeatedly alerted the citizens of Jones County to the danger to Life, Liberty and Property, which is posed by the unconstitutional national police bureaucracy. This, and much other supporting evidence was turned over to Chet Dillard in order to obtain a just indictment for kidnap-torture of Lawrence Byrd in January of 1966 in Laurel, but they will not bring these facts before the Grand Jury. The facts show the following:

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The situation was different for the third defendant, Daniel Swan, who, like the others, faced charges under the hate-crime statute. Unlike the others, Swan pleaded not guilty. The law requires that the government prove the accused acted out of racial animus, and Swan, whose defense consisted of an alibi that he was drunk on the night of the cross burning, maintained that he simply did not have the racial animus necessary to be guilty of a hate crime under federal law.

The case went to trial in Pickering's courtroom. During the course of testimony, Pickering asked Civil Rights Division prosecutors, who said they had decided to drop the case that Swan had presented after the five-year probation of the recommended sentence. Pickering then sentenced Swan to 27 months in jail. At the sentencing hearing, Pickering told Swan, 39 years old...
confidential, and no one who was involved in the prosecution has publicized the department’s motives, but there is enough publicly available evidence to suggest a few conclusions. In March 2003, Sen. Orrin Hatch, Republican from Utah, who has been a reliably conservative senator, introduced a bill to make the death penalty a more uniform defense for 17-year-olds charged with crimes. The bill, which has been referred to the Senate Judiciary Committee, would bar the death penalty for anyone under 18.

By contrast, theusual response of many lawyers to the swan-case has been to argue for leniency. The most lenient response would be to try the defendant in a civil court and allow him to enter a plea of guilty and not have the case go to trial. The defendant would then be subject to a sentence of up to five years in prison. This is the type of sentence that the defendant was actually given. However, the defendant could have pleaded guilty and been sentenced to a longer prison term under the newly enacted federal hate crimes law.

In a February 12, 2004 letter to the Senate Judiciary Committee, Charles Pickering, the U.S. attorney for the District of Mississippi, stated that the defendant, Swan, was charged with a hate crime because he crossed the line into the home of an African American couple. The defendant was accused of entering the couple’s home and setting it on fire.

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Prosecutors would have no reason to sympathize with the judge, as it was the stiff sentence they sought that the judge was attacking. Yet an internal Justice Department memo information of the pending meeting. Pickering shows the judge deeply troubled by the sentencing disparity.

At the same time, the Justice Department memo information of the pending meeting. Pickering shows the judge deeply troubled by the sentencing disparity. He persuaded prosecutors with no prison time. Pickering eventually sentenced a year, allowing his continued good turnaround. Pickering delayed his sentence. Upon learning about Moody's apparent worry about how a harsh sentence on Swan could play in the community, presumably the white community—a factor that should be irrelevant to the pursuit of justice.

In the case, two men and a 17-year-old boy were drinking on the night of Jan. 9, 1994. They set fire to an 8-foot-tall cross outside the Improve, Miss., home of a white man and his African-American wife.

Two days before the choking and the juvenile—pleaded guilty to federal civil rights charges. Following recommendations from prosecutors, Pickering sentenced both to probation with home confinement. As it turned out, the 17-year-old was likely the instigator, who would later admit to firing a shot through the interracial couple's window.

The final defendant, Swan, went to trial. He admitted being at the scene but said he was not there out of racial animosity. The jury found otherwise, convicting him on three counts. Federal prosecutors then asked Pickering to sentence Swan to 7½ years.

Pickering strongly criticized the sentencing disparity. He persuaded prosecutors to drop one count in order to void one conviction of race-motivated violence. Pickering sentenced Swan to two years and three months in prison.

**FAITH IN JUSTICE “DESTROYED”**

That move troubled Brenda Polkey, one of the victims of the cross-burning incident. Last year, she wrote to the Senate Judiciary Committee in opposition to Pickering’s appeals court nomination, fueling the Democrats' attack. Polkey, who had lost a family member to a racial killing, said she had “experienced incredible feelings of relief and faith in the justice system” when a predominantly white judge convicted Swan.

“My faith in the justice system was destroyed,” she wrote. “I learned a lesson from Judge Pickering’s efforts to reduce the sentence of Mr. Swan,” she wrote. “I am astonished that the judge would have gone to such lengths to reduce the sentence of the jury and to reduce the sentence of a person who caused so much harm to me and my family.”

The A JC review of the judge’s rulings, however, shows that Pickering—like many other federal judges who face rigid U.S. sentencing rules—has gone out of his way many times to reduce prison sentences in cases where a defendant could not be considered a habitual offender. And many of the defendants who benefited are black.

William Moody, an African-American drug defendant, was arrested in 2000, seven years after his indictment. Authorities could not find him because he was living in New York, holding a steady job and supporting his family. Upon learning about Moody’s apparent turnaround, Pickering delayed his sentencing a year, allowing his continued good behavior to be used as a basis for punishment with no prison time.

Five years earlier, in a large-scale cocaine case, Pickering learned months after sentencing black defendant Richard Evans to 12½ years in prison, that pressures on him, recommending he sentence a more culpable co-defendant also an African-American, to no more than nine years. Pickering quickly vacated Evans’ sentence and later sent him to prison for 10 years—five months less than what the co-defendant received.

“Judge Pickering handled this fairly,” said Lloyd Miller, a U.S. probation officer who prepared sentencing reports in Pickering’s courtroom for more than a decade. “It didn’t make a difference whether you were black or white. Whether you were a pauper or if you had money.”

Pickering, who would not comment for this article personally on his re.nomination, has said that in almost all the criminal cases that came before him involving non-violent first offenders, he has tried to lessen their sentence rather than impose a mandatory sentence of Mr. Swan,” she wrote. “I am astonished how much those complaints would resonate without the cross-burning case because the Justice Department memo has not been published until now. But Providence, both from his civic life and judicial record, to believe that he does not cater to white people’s particular interests.

In a 1999 essay on race relations in the Jackson Clarion-Ledger, Pickering addressed the issue be addressed to then-U.S. Attorney General Janet Reno. Pickering even called Vice President Al Gore's brother-in-law, Bill, to persuade him to head the Justice department's Civil Rights Division, to express his frustration.

Pickering summed up his thoughts about the sentencing disparities in the cross-burning case clearly when Swan was to be sentenced on Nov. 15, 1994.

“He committed a reprehensible crime, and I am going to punish him. He has done that from the bench. ’And he’s going to pay a price for it. But I have never, since I’ve been on this bench, seen a more contradictory, inconsistent position by the government than they’re taking in this case.”

Bradford Berry, a civil rights prosecutor from Washington, responded by saying perhaps the Justice Department should have asked for harsher punishment against Swan’s two co-defendants.

“You’re the one working for the Justice Department, not me,” Pickering shot back. “I didn’t take that position. The Justice Department took that position.”

Pickering postponed the sentencing another three months. He told lawyers involved back to his chambers, without a court reporter to transcribe the discussion.
In a memo written after the meeting, Berry gave an extraordinary account of what transpired.

Pickering told the lawyers about his civil rights background, saying that while not at the forefront of the movement, he was a supporter, according to Berry’s memo. Pickering had never stood against a Ku Klux Klan leader, had twice thrown out jury verdicts in trials when he thought the results were tainted with racism and had encouraged his son to attend the Central High School in Little Rock, Arkansas, the test case for the desegregation of public schools.

But Pickering also gave another reason the case disturbed him, Berry noted. The judge said that “in the current racial climate in that part of the state, such a harsh sentence would serve only to divide the community.”

Pickering then added some words to consider agreeing to dismiss the count against Swan that mandated a five-year sentence. By the time prosecutors returned for Swan’s sentencing, they had capitulated, agreeing to drop it.

Don Samuel, former president of the George Washington University, told the Senate that Pickering’s aggressive posture in the cross-burning case is not uncommon among the federal judiciary.

“There are judges who want a just result and try to convince the parties to find a way that enables them to do so under the federal sentencing guidelines, which can be very harsh and rigid,” Samuel said. “These things happen. Often it’s very well-intentioned to get around a harsh result.”

But Samuel said he found troubling Berry’s account of Pickering’s concern about a harsh sentence dividing the community. “That doesn’t seem like a very good basis and it shouldn’t be,” the defense lawyer said.

University of Georgia criminal law professor Ron Carlson said the only part of the state, such a sentence would “probably be rural white people.”

But Carlson said it is unfortunate that Pickering has been condemned for his action in the cross-burnings case. “That’s because this is a racist judge overseeing a racist case,” he said. “The opposite. He’s very fusesome in his condemnation.”

When the sentence was finally imposed on Jan. 23, 1995, Pickering told Swan he had committed “a despicable act.”

“I assure you that you exhibited cannot and will not be tolerated,” the judge said. He suggested to Swan that “during the time that you’re in prison . . . do some reading on race relations and maintaining good race relations and how that can be done.”

Mr. ALEXANDER. Mr. President, I will not dwell on the lifelong record of Mr. Pickering. But his testimony against Bowers was not an isolated instance. I will not dwell on the charge some have made about a 1994 case. Senator HATCH dealt with that, although I ask unanimous consent to include some words of the National Review Online and the Atlanta Journal-Constitution explaining what really happened. In short, the Justice Department botched the case and the ringleader in the cross burning was turned loose. Pickering then properly reduced the sentence and maintained good race relations and how that can be done.

Mr. President, I rise today to say a few words concerning the nomination of Judge Charles Pickering.

Throughout the entire history of the Senate, no judicial nominee has ever been defeated by a filibuster. Yet in this session alone, four nominations have been held up by constitutional obstruction. Soon, there will be five, six, and likely even more nominees facing partisan filibusters. This obstruction flies in the face of more than 200 years of Senate tradition, the constitutional role of the Congress, and the consent of the governed.

While all of these filibusters are wrong, it seems to me that the tactics used against Judge Pickering are particularly disgraceful.

First, we witnessed the hostile attitude toward Leon Holmes, a nominee for the Eastern District of Arkansas. Despite having earned the support of his home state Senators—both members of the minority—Mr. Holmes was sharply criticized—not for his legal work, but for his personal writings about his religious views.

Then we witnessed the unbridled animus directed toward Alabama Attorney General, Bill Pryor—who was repeatedly challenged over whether his “philosophy” and “deeply held views,” particularly those arising from his religious group campaign, one directed against Southerners and against those who take their faith seriously. A representative of one of these groups recently called Judge Pickering a “racist,” a “bigot,” and “a woman-hater.”

It is sad to see this shameful caricature of a well-qualified, respected man. And it is sadder still to see these special interests dominate the other side. I hope we would never again gain apologists among any members of this body, but hearing this debate today, I fear that my hope was all for naught.

This Nation, both North and South, has for too long suffered from the scourge of racism. We have made a great deal of progress so far, and there is more to go. But even as we condemn racism with all our might, we must also condemn false charges of racism. Every false charge of racism weakens a true charge of racism, and ultimately, that hurts us all.

Judge Pickering has been praised and supported by those who know him and by those whose jobs are attended by his side, and seen him fight racism in his home state of Mississippi.

My fellow Southerners who have reviewed the record carefully agree. All can agree that Senator Cockrell, with appropriate qualifications, is the nominee. The Atlanta Journal-Constitution explains why. I hope that my colleagues will agree that Judge Pickering’s “record demonstrates his commitment to equal
Mr. BUNNING. Mr. President, I speak today in support of Judge Charles Pickering and his nomination to the Fifth Circuit Court of Appeals.

Judge Pickering was unanimously confirmed to be a Federal district judge in 1990, where he has served honorably ever since. He graduated first in his law school class at the University of Mississippi School of Law and has spent his whole career tearing down vestiges of power in this Nation—the remnants of the old South and throughout America.

I ask my fellow Senators to vote today to confirm Judge Pickering to the Fifth Circuit Court of Appeals. I hope that the Senate will participate in the life of the law and will continue to fight racism, often with deep sacrifice and personal cost.

Mr. Evers wrote in the Wall Street Journal in support of Judge Pickering, saying, 'As someone who has spent all my adult life fighting for equal treatment of African-Americans, I can tell you with certainty that Charles Pickering has an admirable record on civil rights issues. He has taken tough stands at tough times in the past, and the treatment he and his record are receiving at the hands of certain interest groups is shameful... ' Those in Washington and New York who criticize Judge Pickering are the same people who have always looked down on Mississippi and its people, and have done very little for our state's residents.

I hope that today the Senate will take a stand against the despicable tactics of radical special interest groups. We must not allow the special interests' exploitation of religious views, stereotypes, or false caricatures—concerning Southerners or any other people—to decide a vote on any nominee. Such reprehensible practices have no place in this debate. And it is a dark day for the Senate and for America's independent judiciary when we allow special interests to dictate the basis for disqualification.

I ask my fellow Senators to vote today to confirm Judge Pickering, to reject the inhuman caricature that has been drawn by special interest groups intent on vilifying, demonizing, and marginalizing an admirable nominee. I hope that my colleagues will give all these qualified nominees what they deserve, and allow them to have an up or down vote.

For the sake of the Senate, the Nation, and our independent judiciary, I hope that these days of obstruction finally end.

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Rogers Brown, Bill Pryor, Priscilla Owen, and Henry Saad. Each nominee has a fantastic story and a stellar record. Each has been singled out for his or her adherence to the law and the traditional roles of government.

Racists have long fancied themselves as the champions of women and minorities in this country, and I have no doubt that many on the left do strive for equality for all Americans. But the radical left has achieved its power through the politics of division. A conservative Hispanic or conservative woman or conservative Arab or conservative black woman or conservative religious man is anathema to their dominance of these issues. Rather than celebrating the achievements of these gifted human beings ascending to the job for which he or she was selected by the President of the United States, these ultra liberals would rather defame their characters and demagogue their beliefs.

There seems to be no end in sight to these tactics and political showdowns. But I hope and pray that day will soon come.

Mr. McCONNELL. Mr. President, today we will vote on whether the Senate shall simply to confirm the nomination of Charles Pickering to the Fifth Circuit Court of Appeals. From my review of Judge Pickering’s record, I have been struck by one resounding virtue—moral courage. As the tide of racial equality swept America in the 1950s and 1960s, it unfortunately met with fierce resistance in certain areas. Laurel, MS was one. Unlike New England, integration was not popular in Jones County, Unlike New York, the press was not friendly to integration in Jones County. Unlike large Southern cities such as Atlanta and Birmingham, there was no substantial segment of the community that had an enlightened view on race relations. The town of Laurel, MS in Jones County, MS, with a small population was the home territory of the Imperial Wizard of the Ku Klux Klan, Sam Bowers.

In the 1960s, Klan-incited violence escalated in Jones County, MS. The Klan would drive by homes in the middle of the night and shoot into them. The Klan would firebomb the homes of African Americans and those who helped them. The Klan would murder its enemies who stood for civil rights.

Beatings, shootings, bombings, and murders violated the law, the victims looked for justice. They found it in Jones County Attorney Charles Pickering.

On the one hand, Charles Pickering had his duty to enforce the law. On the other hand, he had public opinion, the press, and most state law enforcement personnel against vigorously prosecuting Klan violence. A 27-year-old Charles Pickering stared in the face his political future, many in his community, and the press and chose to do his duty of enforcing the law against the men who committed such violence. In the 1960s in Mississippi, this took courage.

Soon County Attorney Charles Pickering found that he had to choose against between those in law enforcement who would only go through the motions of investigating, and those who sought to vigorously prosecute and imprison Klansmen. He chose to work with the FBI to investigate, prosecute, and imprison Klansmen. In the mid-1960s in Mississippi, this took courage. Then came the threats. The Klan threatened to have County Attorney Pickering whipped. With the Klan already firebombing and murdering other whites whom it viewed as helping black citizens, the Pickering family could have easily been next.

At night, County Attorney Charles Pickering would come back to his small home and look into the eyes of his young wife Margaret. He would look into the eyes of his four small children and wonder if he could do anything and who did not understand hate and murder. One can only imagine how his wife Margaret would lie awake in fear, hoping that she would hear her husband’s footsteps coming home.

Charles Pickering knew he had to stand up for his family. He had no press to stand up for him and his family. He had no covering of popular opinion to hide behind. And in this time of hate, bombings and murder, Charles Pickering reached deep down in his soul, embraced the only thing he did have, his religious faith.

He then testified against Sam Bowes, the Imperial Wizard of the Ku Klux Klan in the firebombing trial of civil rights activist Vernon Dahmer in 1967. And Charles Pickering signed the affidavit supporting the murder indictment of Klansman Dubie Lee for a murder committed at the Masonite Corporation’s pulpwood plant in Jones County, MS.

While it is easy in Washington, DC, in 2003, to make a speech or sign a bill in favor of civil rights after decades have changed racial attitudes in schools, in society, and in the press, who among us would have had the courage of Charles Pickering in Laurel, MS in 1967? Who among us would have had the courage of his wife Margaret to stand with him?

There are those who would say “We are pleased that Harry Truman integrated the federal armed forces in 1948, but he should have gone further and called for the integration of the state national guards as well.” We are pleased that Lyndon Johnson signed the Civil Rights Act in 1964, after opposing civil rights, but he should have gone further and demanded that all businesses adopt an affirmative action hiring plan.”

To judge the words and actions of these Civil Rights Champions in the 1940s, 50s, and 60s, by a 2003 standard, would leave them wanting. We must remember that in Mississippi and other Southern States in the 1960s, most elected prosecutors sat on their hands when the Klan committed acts of violence. Young Charles Pickering had to deal with white citizens and politicians who resisted integration and civil rights. He had to deal with those people in language that would not incite further violence and with requests for action that he had a chance of getting people to take. He did so with moral courage.

And because he acted with courage at such a young age, Charles Pickering was able to continue with more progressive actions decade after decade. In 1976, he hired the first African American field representative for the Mississippi Republican Party. In 1981, he hired the first African American woman and the first conservative Arab for a conservative Hispanic or conservative group for at-risk kids, most of whom were African Americans, in Laurel, MS—where 35 years earlier he had backed his principles with his and his family’s lives. This is a record of courage.

In 2000 he helped the program for at-risk kids, most of whom were African Americans, in Laurel, MS—where 35 years earlier he had backed his principles with his and his family’s lives. This is a record of courage.

In the years since the 1960s, attitudes in Mississippi and elsewhere have dramatically improved. Schools are integrated. The Klan is no longer a powerful force capable of intimidating whole communities. And the support from Mississippians—black and white, men and women—who have known Charles Pickering for decades has been overwhelming. This support no doubt results from the moral courage of Charles Pickering.

In 1990, the Judiciary Committee unanimously reported the nomination of Charles Pickering, and the Senate unanimously confirmed him to the district court bench. In his 12 years on the bench, he had handled 4,500 cases. In approximately 99.5 percent of these cases, his rulings have stood. The American Bar Association rated Judge Pickering “well qualified” for the Fifth Circuit Court of Appeals—once upon a time, the vaunted “gold standard.”

I was present at Judge Pickering’s confirmation hearing. I listened to the testimony and reviewed the record. I have measured the allegations and those who made them, against the entire record and the record of Judge Pickering. I have found the allegations to be unfounded and the special interest group accusers lacking in the moral courage that Judge Pickering possesses.

The Senate now has a chance to show the courage that Charles Pickering has consistently demonstrated. Unfortunately, I fear it will shrink from this
Today I rose to oppose the nomination of Judge Pickering. I know he is people’s friend; I know lots of fine people think he is a fine man—helps that healing. I think it hurts it. I base my decision not only on his record, which—I would have to disagree respectfully with my friend from Tennessee—but race issues are at its best, mixed. The cross-burning case bothers me greatly because if you are sensitive to race, even if you think a case was wrongly decided, you don’t go through the extra legal means, on a cross-burning case, to do what you have to do.

Does that mean a person should be put in jail or excoriated? No. Does it mean if he runs for public office that he is going to lose? No.

But on the Fifth Circuit, the circuit that has had the great names at healing race and racial divisions that my colleague from Tennessee mentioned, should not we be extra careful about trying to bring a unifying figure to that bench, particularly when it represents more minorities than any other?

The bottom line is, while we can find individual names, to me it is overwhelmingly clear that the Black community in Mississippi—which ought to have pretty good judgment about who did what, when, and how far we have come—is quite overwhelmingly against Judge Pickering.

You can say it is politics. But when we hear the head of the NAACP say, as he told us yesterday, that every single chapter—I don’t remember how many there were, like 140—were against Judge Pickering, that means something. When you hear that all but a handful of the Black elected officials in Mississippi are against Judge Pickering, that means something.

Frankly, in this body we don’t have an African American to give voice to their view, the African American view, diversity as it is, about whether Judge Pickering is a healing figure and deserves to be on this exalted circuit. We are not demoting him. We are not excoriating him. We are debating whether he should be promoted to this important bench, particularly when it comes to race and civil rights. And the overwhelming voice is no.

I ask unanimous consent from my colleague to be given an additional 3 minutes.

Mr. LEAHY. I yield another 3 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. So the overwhelming voice is no. The elected Black officials of Mississippi—I don’t know the percentage, but I think it is against him. The only Black Member of Congress speaks strongly against him. He doesn’t just say, well, I wouldn’t vote for him, it is an either/or situation, and that has to influence us. It is not dispositive. People can say “these groups.” Well, the NAACP is not just a group. It has been the leading organization. It is a mainstream African-American organization.

There are groups on the other side lobbying for Judge Pickering. There are groups on this side against. I don’t oppose my colleague from Tennessee on this. I think on the other side, say the groups that lobby against what they want are evil, and the groups that lobby for are doing American justice. That is what groups do, and we listen to them sometimes.

Mr. Leach from New York, don’t know that much about this. I try to study history, but I haven’t lived there. I haven’t gone through the history that my colleagues from Mississippi or Tennessee have. But I have to rely on other voices as well.

So the fork in the road we come to here is this: On this nomination in this important circuit which has, indeed, done so much to move us forward—and I do believe we will continue to move as a country; even as Alexis de Tocqueville said, on the poison of—do we appoint a man who, on racial issues, has a record that at best is mixed, and who recently, at a very minimum, has shown insensitivity on the cross-burning case? Sure, there was a civil rights group that along with a couple of others said I know quite well, in criminal law there are always disparities of sentence when there is a plea bargain, and prosecutors always go to someone in the case and say: If you plea bargain, you will get 10 years in prison rather than a fine. That is not a great injustice. It happens every day in every court in this land. On this particular case, that is where Judge Pickering’s heart was, to take it to a higher level. It is bothersome, particularly when it comes to nominating someone, not just to be a district court judge—which he is now—but nominated to the exalted Fifth Circuit, the racial healer in America for so long.

So in my view—no aspersions to my colleagues from Mississippi, don’t know why I feel so strongly about this; no aspersions to my colleague from Tennessee who was eloquent, in my opinion; and no aspersions to Judge Pickering as well—but we can do better, particularly on the Fifth Circuit, when it comes to the issue of race, which has plagued the regions of the Fifth Circuit and plagued my region as well. We can do better. I urge this nomination be defeated.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

Mr. EDWARDS. Mr. President, I rise today to speak against the nomination of Charles Pickering to the U.S. Court of Appeals for the Fifth Circuit.

I oppose this if you don’t, because Judge Pickering has repeatedly demonstrated a disregard for the principles that protect the rights of so many of our citizens. Judge Pickering’s record as a judge is full of instances in which he has elevated his personal views above the law. For example, Judge Pickering has shown a lack of respect for the Supreme Court’s landmark
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legal precedents, especially those that protect rights. He has harshly criticized the Supreme Court’s “one person, one vote” rulings and has reversed numerous times by the Fifth Circuit Court of Appeals for his failure to follow “well-settled principles of law.”

In one case, Judge Pickering took extraordinary steps to reduce the sentence required by law for a man convicted of cross burning. In addition, he exerted extraordinary efforts to reduce the 5-year sentence mandated by Federal sentencing guidelines in the cross-burning case and went so far as to make an ex parte phone call to Justice Department officials in an attempt to assist the defendant.

And, since his hearing, Judge Pickering has actively solicited the support of this nomination from attorneys who appear in his courtroom. This behavior not only calls into question Judge Pickering’s commitment to protecting the constitutional rights of all Americans, but legal experts agree that his actions violated the canons of judicial ethics.

Unfortunately, some of our colleagues on the other side of the aisle, in their drive to push through every Bush judge at all costs, have turned this process into a personal attack on the integrity and motivations of those of us who oppose this nomination. We have been accused of anti-Southern bias. I assure you that any one of my colleagues in the Senate, if one were to have ever listened to me talk would have to figure that I am the last person to hold an anti-Southern bias.

We have even been accused of calling Judge Pickering a racist, something we have not done. I do not presume to know what is in Judge Pickering’s heart. But I do know what is in his record. That record proves him unfit to serve as a Court of Appeals judge.

We have tried our best to facilitate consensus and cooperation in judicial nominations. Unfortunately, most of our efforts are being rejected, which doesn’t make a bit of sense, since we accomplish so much when we all work together.

We have seen what happens when the President meets us halfway. He has done it before—rarely, but he has done it. He reached out to us on Allyson Duncan, an outstanding North Carolinian who just yesterday was formally instated as a judge on the Fourth Circuit Court of Appeals, breaking a long logjam that had held our State back for a decade.

In that case, President Bush did more than just pay lip service to our constitutional obligation to advise and consent to nominees. He made his decision. He consulted with us. He sought our advice. And in making his decision, the President selected a nominee who represents the mainstream of our State.

Throughout Judge Duncan’s confirmation process, I commended the President for consulting with us and making an excellent nomination. And I told him that if he takes this approach to future judicial nominations we have a real opportunity to find common ground in the search for excellence on the federal bench. When we work together, we find outstanding nominees like Allyson Duncan, who represents the best of North Carolina and America.

But rather than accept my call for consensus, the President just said no.

There is a saying that if you see a dog and a cat eating from the same dish, it might look like a compromise, but you can bet they are eating the cat’s food. That is how things seem to be working in Washington these days. My colleagues and I have tried and tried to find common ground. We have said yes to Bush judges, time after time after time. We have said yes to more than 160 Bush judges. But my colleagues on the other side of the aisle have instead dug in their heels and demanded that unless we agree to every Republican nominee the President sends up here, no matter how unacceptable they are, we are being obstructionist.

We can do better than this. And we should do better. It is time for this President to stop saying no to judges who will fairly apply the law. Let’s say yes to judges who will fairly apply the law. Let’s say yes to judges who will properly protect our civil liberties. Let’s stand together to express the same priorities that my colleagues today as we say a resounding yes to fairness, equality and justice.

Ms. CANTWELL. Mr. President, Federal judges serve lifetime terms, and are responsible for interpreting our Constitution, and our laws, in ways that have real implications for the rights of regular Americans. Last year I joined my colleagues on the Judiciary Committee in voting to not report the nomination of Judge Pickering. District Court Judge Charles Pickering to the Court of Appeals for the Senate floor. I stand by that vote. I continue to have very real concerns about Judge Pickering’s ability to be a fair and neutral Court of Appeals judge.

In evaluating judicial nominations, among the factors I consider are whether the nominee demonstrates the highest level of professional ethics and integrity, and has the ability to distinguish between personal belief and judicial opinion in interpreting the law. Unfortunately, I believe Judge Pickering falls short in meeting these criteria. Judge Pickering is an honorable person, but he is simply the wrong person to fill this very important position on the Court.

Like my colleagues, I am troubled by Judge Pickering’s handling of the case of United States v. Swan, where a white defendant was tried for burning a cross on the lawn of an interracial couple. Judge Pickering had multiple ex parte conversations with prosecutors and Justice Department officials in an effort to reduce the sentence of Mr. Swan. In doing so, Judge Pickering seems to have lost sight of the ethical limitations on his actions, and the extent to which he was failing to maintain judicial independence. As Brenda Polkey, the victim of the cross burning, said, her “faith in the justice system was destroyed” by Pickering’s efforts to reduce Mr. Swan’s sentence. In every aspect of government we need to work hard and keep faith with the public.

This case indicates how deeply held Judge Pickering’s views about how far he will go to arrive at an outcome he believes to be correct. The difficulty that he has in keeping his personal views out of his judicial decision-making are obvious, not only in this case, but in several opinions in which he goes beyond the facts of the case to state his belief of what the law ought to be. Judge Pickering’s efforts to solicit letters of support from lawyers appearing before him in direct violation of the canons of judicial ethics is another example of understanding and adherence to the ethical guidelines that are critical to maintaining the independence and integrity of the Federal judiciary.

Because of this troubling record of not only Judge Pickering’s views, and of over-stepping ethical bounds to achieve a particular outcome, I asked Judge Pickering questions at his hearing that focused on the right to privacy. I asked Judge Pickering about privacy as it pertains to consumers’ rights, specifically medical and financial records, as it pertains to an individual’s right to privacy in the context of government surveillance, and with regard to a woman’s right to make personal decisions about her body. In response, he declined to state whether he believed that any right to privacy was conferred by our Constitution.

While my concern about how Judge Pickering would rule on cases of fundamental constitutional importance was only a factor in my decision to oppose his elevation to the Circuit Court, it is one I believe is important.

The Fifth Circuit covers three States—Louisiana, Texas and Mississippi—that have passed more anti-choice legislation restricting a woman’s right to make personal choices about her own body than any other States. In fact, all three States continue to have unconstitutional and unenforceable laws on the books prohibiting a woman from having an abortion, because the legislature in each of these States will not repeal the laws. This is the context against which we must consider the President’s nomination of Judge Pickering.

While Judge Pickering has repeatedly pledged to restrain his personal ideological views and follow the precedent of the Supreme Court, given the unique role that the Fifth Circuit plays in protecting not only the constitutional rights enunciated in Roe and affirmed in Casey, but also in protecting women’s access to abortion providers in the States with the Fifth
I am concerned about Judge Pickering’s willingness to say where in the Constitution privacy is protected and his willingness to follow the law. Judge Pickering’s actions on the bench reveal a lack of understanding of the requirements of judicial ethics and a failure to meet the very highest standards of the legal profession. Judge Pickering has exhibited a lack of ability to distinguish his personal beliefs from the issues before the court, and I therefore cannot support his elevation to the Fifth Circuit.

Mr. FEINGOLD. Mr. President, I will vote no on cloture on the nomination of Charles Pickering to be a judge on the U.S. Court of Appeals for the Fifth Circuit.

We had a fair process in the last Congress on this nominee—two hearings, a lengthy period of deliberation and debate, and a fair vote. The nomination was defeated. The Judiciary Committee’s consideration of this nomination was thorough and fair. Obviously, some did not like the result, but I do not think they can in good faith find fault with the process.

It is my view that a process that gives a nominee a hearing, and then a vote in the Judiciary Committee is not an unfair process, or an “institutional breakdown,” as some critics of our work have done. The last year called it. It is the way the Judiciary Committee is supposed to work. During the 6 years prior to last Congress, the Judiciary Committee did not work this way. Literally dozens of nominees never got a hearing, as Charles Pickering did, and never got a vote, as Charles Pickering did. Those nominees were mistreated by the committee; Charles Pickering was not. What happened in the Judiciary Committee last year was a breakdown of the system, and I do not accept that.

Judas on our Federal courts of appeals have an enormous influence on the law. Whereas decisions of the district courts are always subject to appellate review, the decisions of the courts of appeals are subject only to discretion in review by the Supreme Court. Because the Supreme Court agrees to hear only a very small percentage of the cases on which it reviews the decisions of the courts of appeals are subject only to discretionary review by the Supreme Court. Because the Supreme Court agrees to hear only a very small percentage of the cases on which its review is sought, the decisions of the courts of appeals are, in almost all cases, final. That is why one’s reputation for being fair in handling cases is so important. The President’s party engaged in a systematic policy of obstructing the Senate’s consideration of this nomination very careful consideration.

There is another factor that I think requires us as a committee to give this nomination very careful consideration. During the last 6 years of the Clinton administration, the Judiciary Committee did not report out a single judge to the Fifth Circuit Court of Appeals. That is right. Not a single one.

And as we all know, that was not for lack of nominees to consider. President Clinton nominated three well-qualified lawyers to the Court of Appeals—Jorge Rangel, Enrique Moreno, and Alston Johnson. None of these nominees even received a hearing before this committee. When the chairman held a hearing in July 2001 on the nomination of Judge Alston Johnson, the committee did not report out a single judge to the Fifth Circuit Court of Appeals. That is right. Not a single one.

So there is a history here and a special burden on the administration to consult with our side on nominees for this Circuit. Otherwise, we would simply be rewarding the obstructionism that the President’s party has engaged in over the last 6 years by allowing him to fill with his choices seats that his party held open for years, even when qualified nominees were advanced by President Clinton. And I say once again, my colleagues on the Republican side bear some responsibility for this situation, and they can help resolve it by urging the administration to address the injustices suffered by so many Clinton nominees.

With that background, let me outline the concerns that have caused me to reach the conclusion that Judge Pickering should not be confirmed. Except for the DC Circuit, the Fifth Circuit has the largest percentage of residents who are minorities of any circuit—over 40 percent. It is a court that during the civil rights era issued some of the most significant decisions supporting the rights of African American citizens to participate as full members of our society. It is a court that has addressed the continuing problems of racism and discrimination in our country will continue to arise.

Judge Pickering’s record as a Federal district court judge leads me to conclude that he does not have the dedication to upholding the civil rights laws that I believe a judge on this circuit must have. Judge Pickering has a disturbing habit of injecting his own personal opinions about civil rights laws into his opinions and of criticizing the EEOC’s efforts to provide certain sanctions for prisoners who file repeated frivolous claims.

Another area of the law where Judge Pickering has demonstrated what seems like a hostility to certain kinds of claims is that of prisoner litigation. We all know that there is a significant problem of frivolous lawsuits being filed by prisoners. Congress addressed this problem in 1996 with the Prisoner Litigation Reform Act, which has provided certain sanctions for prisoners who file repeated frivolous claims.

Judge Pickering, however, has taken
the law into his own hands on numerous occasions by threatening to order prison officials to restrict prisoners’ privileges if they filed another frivolous lawsuit. And he did this even after Congress specified certain sanctions for repeated frivolous lawsuits in the 1996 Act.

I believe that this kind of threat is inappropriate behavior for a Federal judge. Judge Pickering’s opinions could not help but chill even legitimate complaints from prisoners. While it is true that much frivolous litigation is filed by prisoners, it is also true that some celebrated cases upholding and explaining the constitutional rights of the accused have had their genesis in a prisoner complaint where the prisoner did not have a lawyer. Gideon v. Wainwright, which established the right to an attorney, was such a case. Just the day before Judge Pickering’s second hearing, the Washington Post ran a story about a prisoner who received a favorable Supreme Court decision in a case that began with such a complaint. And the petition for certiorari was filed by the prisoner without a lawyer, as well. I believe that judges at all levels must have an open mind toward all types of pleading in a jail. I do not believe that threatening to file frivolous litigation from doing something to do.

Judge Pickering did respond to my written questions about his decisions in prisoner litigation. I was gratified to learn that he never actually imposed the sanctions he threatened, and I appreciate his and the Justice Department’s efforts to find legal authority for his orders. I find those efforts unconvincing, particularly with respect to the orders that he entered after Congress passed the Prisoner Litigation Reform Act. Judge Pickering states in answer to my questions that “my objective was to stop prisoners who were filling up litigation with frivolous suits.”

I also have concerns about two different ethical issues that arose during the consideration of his confirmation. I questioned him about one such issue at his second hearing before the Judiciary Committee last year. After his first hearing, Judge Pickering asked a number of lawyers who practice before him to submit letters of recommendation. He asked them to send those letters to his chambers so that he could fax them to Washington. And he testified that he read each forwarding letter before forwarding it to the Justice Department, which sent them on to the committee. Now when I asked Judge Pickering about this, he seemed confused by the questions, as if he thought I was objecting to the fact that the letters had been faxed rather than mailed. Let me be clear, I have no problem with faxes. I get them all the time. What I do have a problem with is a sitting Federal judge urging lawyers to do something before him to send letters supporting his nomination to a higher court and having those letters sent to him rather than directly to the Justice Department or the Senate. That seems to raise an obvious ethical issue, and I was surprised that Judge Pickering didn’t recognize it, even when I questioned him about what he did.

I asked Professor Stephen Gillers of NYU Law School, one of the leading experts on legal and judicial ethics in the country, for his views on this issue. Professor Gillers responded in a letter to me. He confirmed my concern about Judge Pickering’s actions. Let me read a portion of that letter. Professor Gillers wrote:

It was improper for Judge Pickering to solicit letters in support of his nomination from lawyers who regularly appear before him. It is important to my answer that the Judge asked for the letters so that he could send them to the Justice Department for transmittal to the Senate. He did not ask the lawyers to send any letters directly to the Senate. Consequently, the Judge would know who submitted letters and what the letters said, as would be obvious to the lawyers.

Last year Senator HATCH obtained a letter on this issue from a professor Richard Painter. Professor Painter answers only the question of whether soliciting letters of support violates existing rules of judicial conduct and never mentions the additional fact that Judge Pickering asked for the letters to be sent to him rather than to the Senate. That makes Professor Painter’s views much less relevant to the questions I asked.

Furthermore, Professor Painter’s analysis seemed to be limited to an effort to show that the authorities relied upon by Professor Gillers are not exactly on point and that the standards governing the solicitation of letters of support for nominations are vague. He argues that the rules should be clarified and made more specific. And perhaps he is right about that. But it seems to me to be an insufficiently low standard to set that judges need only make sure they don’t clearly violate judicial ethics. I do not want judges who simply avoid clear violations of rules of ethical conduct. We should not want judges who either don’t spot ethical issues or treat them as obstacles to be parsed and tiptoe around. We should want judges who are beyond reproach, who know that ethical conduct is at the core of their responsibilities, because such conduct helps ensure that the public will respect their decisions. I believe that Judge Pickering’s conduct fell far short in this instance.

Before this year’s committee vote on Judge Pickering, some additional information came to light on this matter that suggests that Judge Pickering’s conduct presents even more serious ethical questions. In his response to my inquiries about Judge Pickering’s solicitation of letters of support, Prof. Gillers also noted the following:

I will submit for the RECORD a chart indicating the lawyers with cases pending before Judge Pickering who wrote letters for him upon his request.

Now I have to ask my colleagues: Suppose you were a lawyer in a case and your opponents filed a motion trying to get your case dismissed. The judge has not yet ruled on the motion and you get a call from him asking you to write a letter of recommendation because he has been nominated to serve on a higher court. What would you do? Wouldn’t you be troubled? Wouldn’t you feel at least a bit of pressure to comply? And would you write a fully candid letter, especially if the judge asked you to send the letter to him directly so he could see it before forwarding it to the Judiciary Committee?

I will submit for the RECORD a chart indicating the lawyers with cases pending before Judge Pickering who wrote letters for him upon his request. I consider this a very serious ethical breach, and Prof. Gillers agrees. This violation of judicial ethics casts serious doubt on Judge Pickering’s fitness to serve on the Court of Appeals.

It is within this framework that I evaluate the other ethical issue that has arisen, Judge Pickering’s conduct in the Swan cross-burning case. This case and Judge Pickering’s handling of it have been the subject of a great deal of controversy and public discussion, and I will not repeat the details. I will only say that I am very troubled by the Swan case, for a number of reasons. Judge Pickering stepped out of his judicial role, to try to get a result that he favored in the case. He had an ex parte
contact with the Justice Department about the case. He threatened to rule on a legal issue in a way that he apparently did not believe was correct if the Justice Department did not change its sentencing position. He twice told the Justice Department that he might order a new trial even though it was clearly outside of his authority to do so. And he took unusual and apparently unjustified steps to keep his order secret, which prevented public scrutiny of his actions.

Judges' comments should not be like legislation that can be reintroduced and reconsidered by a succeeding Congress. The Senate, acting through this Committee, and exercising its constitutional responsibility, refused to give its consent to this nomination last year. I believe it was wrong for the President to re-nominate Judge Pickering.

I do not believe Judge Pickering is a racist, nor do I believe that he is a bad person, but I believe that his actions were unjustified and that he should have been removed from the Bench. It is my view that Judge Pickering is not the right choice for this position. I wish him well in his continued work on the district court.

Mr. President, I ask unanimous consent to print in the Record the letter to which I referred.

The white paper's case was ordered to be printed in the Record, as follows:

NEW YORK UNIVERSITY,
School of Law,
Hon. Russell D. Feingold,
U.S. Senate,
Washington, DC.

Dear Senator Feingold: I am replying to your inquiry of February 12, 2002. I assume familiarity with Judge Pickering's testimony and will address the two questions you ask. I do not believe that the Committee should take a position on whether Judge Pickering should be confirmed for the Fifth Circuit or the weight, if any, that should be given to my analysis. I believe many facts are relevant to a confirmation vote.

It was improper for Judge Pickering to solicit letters in support of his nomination from lawyers who regularly appear before him. It is important to my answer that the Judge asked the lawyers to fax him the letters so that he could send them to the Justice Department for transmittal to the Senate. He did not ask the lawyers to send any letters directly to Washington. Consequently, the Judge would know who submitted letters and in what number. But the Judge did not ask the lawyers to say—nor, as would be obvious to the lawyers—that he is a racist.

I will assume initially that none of the lawyers whose letters the Judge solicited had current cases pending before the Judge if a solicited lawyer (or litigant) did have a pending matter, the situation is more serious, as discussed further below.

Judge Pickering's solicitation creates the appearance of impropriety in violation of Canon 2 of the Code of Conduct for U.S. Judges, which is based on the Code of Judicial Conduct, contains the ethical rules that apply to all federal judicial officers below the Supreme Court.

Judge Pickering's conduct creates the appearance of impropriety, in part, because of the power federal judges, and particularly federal trial judges, have over matters that come before them. Federal judges enjoy a wide degree of discretion, which means that many of their decisions will be upheld absent a serious abuse of discretion—"far more than a de minimis standard. It means that for many decisions, the district judge is the court of last resort and lawyers know that."

Given this power, the Judge was in a position to either order new trials or to refuse to do so. He did not explain to the lawyers whose cases would be subject to his order some of the reasons for this order. He took unusual and apparently unjustified steps to keep his order secret, which prevented public scrutiny of his actions.

This public scrutiny was important because of the particular nature of the case. The American Civil Liberties Union was challenging the constitutionality of an order to keep a secret. The ACLU was concerned that the government had sought to keep information secret in order to keep the public from seeing the substance of that information.

In Opinion 97, the Committee addressed the situation where a lawyer currently appearing before a magistrate judge was simultaneously sitting on a panel considering a reappointment of a judge's reappointment. The Committee concluded that the issue of the magistrate judge's reappointment was under consideration by a panel, given the Judge's conflict, that would in fact "punish" a recalcitrant lawyer who was not asked to send any supporting letters and in fact to exaggerate their support for the Judge.

I do not suggest that Judge Pickering would actually retaliate against a non-complying lawyer or his or her clients. Nor should the word "coercive" be understood to describe the Judge's subjective intent. Canon 2 tells judges to "avoid . . . the appearance of impropriety in all activities." In evaluating Canon 2, we use an objective standard. We do not ask whether Judge Pickering would in fact "punish" a recalcitrant lawyer on a panel or whether a reasonable lawyer would read the letters and in fact to exaggerate their support for the Judge.

There are two ways to interpret Canon 2. One way, noted in prior cases before the Committee, is to interpret the word "coercive" as meaning that any action by the Judge would lead to an actual or apparent conflict of interest. Under this interpretation, Judge Pickering's actions were coercive.

Under the other interpretation, Judge Pickering's actions were not coercive. The Judge's communication with the lawyers was in a voluntary setting, where the Judge's letter was not secret. There was no communication between the Judge and the lawyers that would be immediately obvious and the coercive nature of the request even more apparent. The letters from lawyers or litigants in current matters could lead to recusal on the ground that the Judge's "impartiality might reasonably be questioned" under Canon 4(C).

Given this power over their cases, and the facts that the Judge's actions would be immediately obvious and the coercive nature of the request even more apparent, the Judge's actions were coercive. In Opinion 97, the Committee held that recusal is required where judge cooperated with a newspaper reporter in a complimentary article about the Judge's wife while newspaper's case was pending before judge.

Opinion 97 is consistent with court rulings that have disqualified judges, or reversed judgments, when the judge, personally or through another, was exploring the possibility of a job with a law firm or government law department. See, e.g., Scott v. U.S., 559 A.2d 745 (D.C. 1989) (conviction reversed where judge was negotiating at the time for a job with the Justice Department). Pecselo, Inc. v. McMilton, 784 F.2d 458 (7th Cir. 1981) (judge disqualified after headhunter for judge contacted law firm appearing before judge). The Code of Conduct has also been required where the Judge's contact with a litigant or lawyer in a pending case was not employment-related but was otherwise for personal gain. See, e.g., Home Placement Service, Inc. v. Providence Journal Co., 739 F.2d 671 (1st Cir. 1984) (recusal required where judge cooperated with a newspaper reporter in a complimentary article about the Judge and his wife).
The Code of Conduct for U.S. Judges requires judges to refrain from activity that could lead to unnecessary recusal. Canon 3 states that the “judicial duties of a judge take precedence over all other activities.” Canon 5 instructs judges to “regulate extra-judicial activities to minimize the risk of conflict with judicial duties.” Opinion 97 and the accompanying commentary have given an outburst of litigant who did not write (or whose lawyer did not write) a letter recommending the Judge a strong legal basis to seek to recuse the Judge in the litigant’s case. A litigant whose case came before the Judge reasonably soon thereafter, but whose lawyer had not written a letter in response to the Judge’s earlier request (the Judge would be aware), would also have a basis for a recusal motion. I hope this letter assists your important work.

Sincerely yours,

Stephen Gillers.

Mr. KOHL. Mr. President, today we are considering the nomination of Charles Pickering to the Fifth Circuit Court of Appeals. Despite the fact that the Judiciary Committee rejected his confirmation little more than 18 months ago, the President has seen fit to renominate Judge Pickering for this appellate court judgeship. But nothing that has occurred in the last year should alter our conclusion that we should not confirm Judge Pickering.

The President’s decision to again advance Judge Pickering’s nomination at this time is hard to understand. Had new facts come to light regarding Judge Pickering’s qualifications or record which assuaged our doubts concerning his fitness for this judgeship, or new explanations emerged for his rulings and actions while a district judge, we could understand the President’s decision to renominate him. But absolutely nothing of the kind has happened. His record was scrutinized at length and in detail by this Committee last year, and a majority found it deficient. Rather than examining the quality of the record of a new nominee, we are once again rehashing the already well-documented and well-established problems with this nominee. And our conclusion today is the same as it was last year—Judge Pickering does not warrant a promotion to the Fifth Circuit.

As Judge Pickering’s record became known last year, we grew more and more concerned about his ability to apply and make the law without prejudice to persons bringing cases of employment discrimination on the grounds of race, ethnicity or gender. In voting rights cases, he has demonstrated a callous attitude toward the core democratic principle that every vote must count. And we are all aware of Judge Pickering’s actions to produce the sentence of a man convicted in a cross-burning case seriously calls into question his impartiality, his judgment, and his fitness to serve as an appeals court judge. This incident looks no better today than it did 18 months ago.

We are further troubled by Judge Pickering’s continued active solicitation of support of letters of recommendation from lawyers practicing before him. Judge Pickering admitted at his prior hearing last year that he asked several lawyers who practiced before him to write letters of support and to send those letters to his chambers so that he could send them on to the Justice Department. This conduct obviously constitutes an abuse of a judge’s position. Even after hearing the ethical concerns of many last year, he has continued this inappropriate practice. Such plain disregard for judicial proprieties and ethics speaks loudly against promoting Judge Pickering to the Circuit.

The deficiencies in Judge Pickering’s record are particularly intolerable in a candidate for an appellate judgeship. Once confirmed to his positions for life, a federal judge is accountable to the Congress, the President, or the people. But this fact has special force when we are considering an appellate court nominee. On the circuit court, a judge enjoys the freedom to make policy if he chooses with little concern of being overruled. Subject only to the infrequent review by the Supreme Court, Court of Appeals judges are the last word with respect to our liberties, our Constitution, and our civil rights.

I also should stress that I do not oppose Judge Pickering because his political views might be different than mine. The President has a right to appoint judges of his own political leanings. But in the case of Judge Pickering, it appears his ideology is so strong, and his convictions so settled, as to interfere with his ability to fairly dispense justice and protect the rights of the most vulnerable in our society. Judge Pickering’s record as a judge over the past decade has called into question the fairness of the hearing chamber so that he could send them on to the Justice Department. This conduct obviously constitutes an abuse of a judge’s position. Even after hearing the ethical concerns of many last year, he has continued this inappropriate practice. Such plain disregard for judicial proprieties and ethics speaks loudly against promoting Judge Pickering to the Circuit.

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has exceeded the number of judicial nominees confirmed for President Reagan in all 4 years of his first term in office. Republicans acknowledge Ronald Reagan as the “all time champ” at appointing Federal judges, and at the same time they contend that the Senate in confirming President George W. Bush’s nominees compares very favorably to his. Since July 2001, despite the fact that the Senate majority has shifted twice, a total of 167 judicial nominations have been confirmed, including 29 circuit court appointments. One hundred judges were confirmed in the 17 months of the Democratic Senate majority, and now 67 more have been confirmed during the comparative time of the Republican majority.

One would think that the White House and the Republicans in the Senate would be heralding this landmark. One would think they would be congratulating the Senate for putting more lifetime-secured judges on the Federal bench than President Reagan did in his entire first term and doing it in three-quarters of the time. But Republicans have a different partisan message. The truth is not consistent with their efforts to mislead the American people into thinking that Democrats have obstructed judicial nominations. Only a handful of the most extreme and controversial nominations have been denied consent by the Senate. Until today only three have failed. One-hundred and seventy-five of the nominees at these confirmations is in stark contrast to the more than 60 judicial nominees from President Clinton who were blocked by a Republican-led Senate.

Not only has President Bush been accorded more confirmations than President Reagan was during his entire first term, but the Senate also has voted more confirmations this year than in any of the 6 years that Republicans controlled the Senate when President Clinton was in office. Not once did President Clinton allow 67 confirmations in a year when Republicans controlled the pace of confirmations. Despite the high numbers of vacancies and availability of highly qualified nominees, Republicans never cooperated with President Clinton to the extent Senate Democrats have. President Bush has appointed more lifetime circuit and district court judges in 10 months this year than President Clinton was allowed in 1985, 1986, 1997, 1998, 1999, or 2000.

Last year, the Democratic majority in the Senate proceeded to confirm 72 of President Bush’s judicial nominees and was savagely attacked nonetheless. Likewise, in 1992, the last previous full year in which a Democratic Senate majority considered the nominees of a Republican President, 66 circuit and district court judges were confirmed. Historically, in the last year of an administration, the 100th Congress votes on a “Thank you” rule to fill the last open seats, and vacancies are left to the winners of the presidential election. In 1992, however, Democrats proceeded to confirm 66 of President Bush’s judicial nominees even though it was a Presidential election year. By contrast, in 1996, when Republicans controlled the pace for consideration of President Clinton’s judicial nominees, only 17 judges were confirmed, and not a single one of them was to a court of appeals.

In fact, President Bush has now already appointed more judges in his third year in office than in the third year of the last five Presidential terms, including the one year when Republicans controlled the Senate and President Clinton was leading the country to historic economic achievements. That year, in 1999, Republicans allowed only 34 judicial nominees of President Clinton to be confirmed all year, including only 7 circuit court nominees. Those are close to the average totals for the 6 years from 1995 to 2000 when a Republican Senate majority was determining how quickly to consider the judicial nominees of a Democratic President. Contrary to the Republican storytelling, the Senate to this point has confirmed 67 judicial nominees, including 12 circuit court nominees, almost double the totals for 1999. These facts stand in stark contrast to the false partisan rhetoric by which Republican partisans have sought to demonize the Senate for having blocked seemingly all of this President’s judicial nominations. The reality is that the Senate is proceeding at a record pace and achieving record numbers. We have worked hard to balance the need to fill judicial vacancies with the imperative that Federal judges need to be fair.

In so doing, we have reduced the number of judicial vacancies to 39, according to the Republican Web site for the Judiciary Committee. Had we not added more judgeships last year, the vacancies might well stand below 25. More than 95 percent of the Federal judiciary is currently operating with 110 vacancies when the Senate Judiciary Committee reorganized under Democratic control in 2001, I helped move through and confirm 100 of the President’s judicial nominees in just 17 months. With the additional 67 confirmations this year, we have reached the lowest number of vacancies in 13 years. There are more Federal judges on the bench today than at any time in American history.

But, despite this record of progress, made possible only through good faith effort by Democrats on behalf of a Republican President’s nominees, and in the wake of the years of unfairness shown the nominees of a Democratic President, the Republican leadership has decided to use partisan politics as a cover for the record as this year winds down.

Today we discuss the nomination of a candidate for a judgeship whose record already has been thoroughly examined and rejected by the Senate Judiciary Committee. In the heart of debating and voting on the appropriations bills remaining to us for this year, including the bill that funds the Justice Department, the State Department, the Commerce Department and the Federal Judiciary. The Senate is being asked to devote its time to the nomination of a candidate for a judgeship who has demonstrated that his record as a lower court judge is not deserving of a promotion. With record judicial nominations, President George W. Bush is the most divisive President in modern times. Through his extreme judicial nominations, he is dividing the American people and he is dividing the Senate.

The nominee we are being asked by the majority to consider today is Charles W. Pickering, Sr., currently a lifetime appointee on the Federal trial court in Mississippi. Originally nominated in 2001 by President Bush, this nominee’s record underwent a thorough examination by the Senate Judiciary Committee and was found lacking. Rejected for this promotion by the committee last year because of his poor record as a judge and the ethical problems raised by his handling of his duties in specific instances, Judge Pickering’s nomination was nonetheless sent back to the Senate this year by a President who is the first in our history to reject the judgment of the Judiciary Committee on a judicial nominee. This is the only President who has renominated someone rejected on a vote by the Judiciary Committee for a judicial appointment.

For a while this year this renomination lay dormant while Republicans planned a followup hearing in their effort to reinterpret the facts and the record. Every once in a while we would read in the news accounts that some Republican official or other would insist that the nomination was to resurface. Judge Pickering himself told an audience at a recently delivered speech that several hearings on his nomination were scheduled and cancelled over the last year by the Republicans.

Recently, however, Republicans decided to forego any pretense at proceeding in regular order. They simply placed the name of Judge Pickering on the committee’s markup agenda and voted him out by means of the one-vote majority. There was no reason given for suddenly bringing this nomination to the forefront again. There are plenty of nominees for the committee to consider whom it has not previously rejected. The committee had been told since the January hearing that the hearing would first be held, but none was.

So the timing has beggared the question: Why Judge Pickering, and why now? Why not move ahead to confirm well-qualified candidates, such as
Roger Titus or Gary Sharpe? Why expend the Senate’s valuable time rehashing arguments about a controversial nomination that has already been rejected once before?

Some have charged that the timing of this vote has been arranged to coincide with the gubernatorial election next Tuesday in Mississippi. That is because for month, after month, after month—10 months, in fact —this renomination, and Republicans seemed reluctant to bring it back to the committee, let alone to the Senate floor, for votes.

Next Tuesday, the people of Mississippi will be voting for their Governor in what newspapers report may be a pretty tight race. So now that this nomination is back, coinciding so neatly with an election in which Haley Barbour, a savvy Republican political operative, is challenging an incumbent Democrat, this is the kind of election that Mr. Haley Barbour, and named after the Republican nominee, the lobbyist firm still controlled by the lobbyist for the first President Bush’s White House Counsel, Boyden Gray, has already produced television advertisements that include a flag and a picture of a soldier, blaring the message: “We will defend the Senate’s valuable time from filibuster threats.”

Let us hope that the Senate is not being used for that partisan purpose.

Here we have a nominee defeated by the Judiciary Committee entirely on the merits—a nominee who, as Democratic Senators have shown, has a record that does not merit this promotion to the post. It(QString) is tantamount to some kind of insult to his personal views into judicial opinions, and who has made highly questionable ethical judgments. We also have a record of misleading and unfair arguments made by the nominee’s supporters in the Senate.

Some believe that the political calculation has been made to ignore the facts, to ignore some outflaunting characterizations of Republican candidates in Mississippi, and to count on cynicism and misinformation to rule the day. Introduce the red herring that opposition to Judge Pickering’s confirmation is tantamount to some kind of insult to the South, and hope nobody sees through that deception.

The poorly named “Committee for Justice,” an organization created to make the ugliest and most partisan political arguments in favor of President Bush’s nominees, and an organization run by the first President Bush’s White House Counsel, Boyden Gray, has already produced television advertisements that included a list of judges approved by the committee, designed to put pressure on Democratic Senators. How long before we see those ads running on Mississippi television stations? And out of whose offices does the “Committee for Justice” do its business? More than the lobbying firm still controlled by and named after the Republican nominee himself, Mr. Haley Barbour. And now, as part of an orchestrated campaign, Republican partisans in the House have also been pressed into service for this misinformation campaign.

Another shameful thing we will hear today is a distortion of the history of the filibuster. Some Republicans would have the public believe that a filibuster of a nominee is, in their words, “unprecedented.” This is another deception. As some of these same Republicans well know, they filibustered the renomination of Judge Paez and Judges Posner and Berzon on the floor of the Senate in 1999 and 2000, as they conceded at that time. By way of example, I note that several Republicans currently serving voted against cloture, the motion to close debate, on the Pickering nomination, in the early 19th century, nominees for the highest court and to the lowest short-term posts have been defeated by delay, filibusters and other parliamentary practices to delay matters too well known.

It is too bad that it has come to a filibuster on Judge Pickering’s nomination. But the White House’s refusal to accept the Senate’s advice has made it inevitable.

Let me clearly outline, once again, the reasons why I cannot support this nomination.

Judge Pickering was nominated to a vacancy on the Fifth Circuit on May 25, 2001. Unfortunately, due to the White House’s change in the process that had been used by Republican and Democratic Presidents for more than 50 years, his peer review conducted by the ABA’s Standing Committee on the Federal Judiciary was not received until late July of that year, just before the August recess. At that point the committee was concentrating on expediting the confirmation hearing of the new Director of the Federal Bureau of Investigation, who was confirmed in record time before the August recess, and other nominations.

The result of a Republican objection to a Democratic leadership request to retain all judicial nominations pending before the Senate through the August recess, the initial nomination of Judge Pickering was required by Senate rules to be returned to the President without action. Judge Pickering was renominated in September, 2001.

Although Judge Pickering’s nominations was not among the first batch of nominees sent to the White House and received by the Senate, in an effort to accommodate the Republican Leader, I included this nomination at one of our three October hearings for judicial nominations. The day after the hearing, on October 18, the three Senate office buildings were evacuated because of the threat of anthrax contamination. Rather than cancel the hearing in the wake of the September 11 attacks and the dislocations due to the anthrax letters, we sought to go forward.

Senator SCHUMER chaired the session in a room in the Capitol, but only a few
Senators were available to participate. Security and space constraints prevented all but a handful of people from attending. In preparation for the October 18 hearing, we determined that Judge Pickering had published a comparatively small number of his district court opinions over the year. In order to give the committee time to consider the large number of unpublished opinions that Judge Pickering estimated he had written in his 12 years on the bench, and because of the constraints on public access to the first hearing, the committee afforded the nominee an opportunity for a second hearing.

I continued to work with Senator LOFTY and, as I told him in response to his inquiries that December, I proceeded to schedule that follow-up hearing for the first full week of the 2002 session. There was, of course, ample recent precedent for scheduling a follow-up session for a judicial nominee. Among those nominees who participated in two hearings over the last few years were Marsha Berzon, Richard Paez, Margaret Morrow, Arthur Gajarsa, Eric Clay, William Fletcher, Ann Aiken and Susan Mollway, among others. Unlike those hearings, some of which were held after the first and second hearings, Judge Pickering’s second hearing was held less than 4 months after the first one and, as promised, during the first full week of the following session.

I should note that the committee worked with Senators LOFTY and COCHRAN from the time of the change in the majority to ensure swift confirmation of other consensus candidates to the bench, and as United States Attorneys and United States Marshals.

On October 11, 2001, the Senate confirmed United States District Court Judge Michael Mills for the Northern District of Mississippi; on October 23, James Greenlee was confirmed as the U.S. Attorney for the Northern District of Mississippi; and on November 6, Dunn Lampton received Senate approval to be the U.S. Attorney for the Southern District of Mississippi; Nehemiah Flowers was confirmed as the U.S. Marshal for the Southern District of Mississippi on February 8 although he was not nominated until the week before adjournment last session; and Larry Wagster was confirmed as the U.S. Marshal for the Northern District of Mississippi; on February 6, he was not nominated until the day before adjournment the session before. We moved forward quickly that year to fill all these crucial law enforcement vacancies in Mississippi.

After determining that the number of Judge Pickering’s published opinions was unusually low, and within a week of the first hearing, the committee made a formal request to Judge Pickering for his unpublished opinions. Judge Pickering produced copies of those opinions that he had written during the year he came to the committee in sets of 100 or more at a time, including a delivery of more than 200 the day before Judge Pickering’s second hearing, and another 200 or more nearly a week after. It took three written requests from the committee and more than 3 months, but eventually we were assured that all available computer databases and paper archives for all existing unpublished opinions had been produced. We appreciated Judge Pickering and his clerks providing the requested materials. Other nominees had been asked by this committee to fulfill far more burdensome requests than producing copies of their own judicial opinions. For example, 4 years after he was nominated to the Ninth Circuit, Judge Richard Paez was asked to produce a list of every one of his downward departures from the Federal Sentencing Guidelines during his time on the Federal district court. That request required three people to travel to California and join the judge’s staff to hand-search his archives. Margaret Morrow, who was nominated to a district court and subsequently to the Ninth Circuit, was asked to produce a list of all cases that required publication from the ACLU of Northern California. She was also asked to produce records of the board meetings and minutes of those meeting so that Senators could determine how she had voted on particular issues. Richard Dyk, nominated to the Federal circuit, was asked for detailed billing records from a pro bono case that was handled by an associate he supervised at his law firm.

The Judiciary Committee only asked Judge Pickering to produce a record of his judicial rulings. They are public documents but were not readily available to the public or the committee. Given the controversial nature of this nomination and the disproportionately high number of unpublished opinions, this request was appropriate as part of our efforts to provide a full and fair record on which to evaluate this nomination, as some Republican Senators have conceded.

I set forth this background, for the record, to ensure that no one misunderstands how the committee went about evaluating Judge Pickering’s record. We did not engage in a game of tit-for-tat for past Republican practices, nor did we demand proof of every nomination, as so many nominations were delayed in recent years. Rather, the Senate Judiciary Committee seriously considered the nomination, gave the nominee two opportunities to be heard, and promptly scheduled a Committee vote. I also postponed a business meeting of the committee 1 week at the request of the Republican leader, out of deference and courtesy to him.

The responsibility to advise and consent on the President’s nominees is one that I take seriously. I firmly believe that Judge Pickering’s nomination to the Court of Appeals was given a fair hearing and a fair process before the Judiciary Committee. Those members who had concerns about the nomination raised them and gave the nominee the opportunity to respond, both at his hearing and in written follow-up questions. In particular, I thank Senator SCHUMER for chairing the Committee on October 18, and for following up then and, again, at the February follow-up hearing. I commend Senator FEINSTEIN for her fairness in chairing that follow-up hearing. I said at the time that I could not remember anyone being more fair than she was that day, and I reiterate that today.

My regret is that she and so many Democrats on the Judiciary Committee were subjected to unfair criticism and attacks on their character and judgment after last year’s committee vote defeating the nomination. I was distressed to hear that Senator FEINSTEIN received calls and criticism, as have I, that were based on our religious affiliations. That was wrong. I was disappointed to see Senators subjected to criticism and insults and name-calling for asking questions. That was regrettable. While Democrats and most Republicans have kept to the merits of this nomination, it is most unfortunate that others chose to vilify, investigate, unfairly characterize and condemn without basis some Senators who were working conscientiously to fulfill their constitutional responsibilities.

I would like to explain exactly what it is about Judge Pickering’s record as a judge that so clearly argues against his confirmation. My first area of concern, which I raised at his hearing, is that Judge Pickering’s record on the Fifth Circuit is replete with reversals. As reflected by several troubling reversals, does not commend him for elevation. Instead, it indicates a pattern of not knowing or choosing not to follow the law, of relying to his detriment on poorly reasoned majority opinions, and of misstating the law.

At his hearing, I asked Judge Pickering about many of these reversals. Looking at his record, I saw that he had been reversed by the Fifth Circuit at least 25 times. And in 15 of those cases, the Fifth Circuit reversed him without publishing their decisions, which according to their rules and practice indicates that the appellate court regards its decision as based on minor or technical grounds. Those Fifth Circuit reversals on well-settled issues indicated that Judge Pickering had committed mistakes as a judge in either not knowing the law or in not applying the law in the cases before him. That is fundamental to judging.

I asked Judge Pickering about a toxic tort case, Abram v. Reichhold Chemicals. There he dismissed the prejudice the claims of eight plaintiffs because he held that they had not complied with a case management order. That means he dismissed them and denied them all rights to bring the case. Again, the Fifth Circuit reversed Judge Pickering’s dismissal, holding he had
abused his discretion because he had not tried to use lesser sanctions before throwing the plaintiffs out of court permanently, without hearing the case on the merits. Again, the Fifth Circuit did not publish its reversal, indicating that it viewed the case on the same legal principle in a case called Heptinstall v. Blount. There the Fifth Circuit held that he had abused his discretion in dismissing a case with prejudice for a discovery violation without any indication that he had used this extreme measure as a remedy of last resort. And in its ruling in Heptinstall, the Court cited another of its previous rulings which stated the same principle of law. What this word means which Judge Pickering was unfamiliar, he had been reversed on that basis once and committed the same error again. This was binding Fifth Circuit authority of which he was aware but chose not to follow.

At his hearing, I asked Judge Pickering to explain his ruling in Abram, especially in light of the prior reversal by the Fifth Circuit on the same principle of law in another of his earlier cases. He offered his recollection of the facts of the case, he offered no satisfactory explanation of why he ruled in a way contrary to settled and binding precedent.

I asked Judge Pickering about a first amendment case, Rayfield Johnson v. Forrest County Sheriff’s Department. This was a case in which a prison inmate filed a civil rights lawsuit claiming that a jail’s rules preventing inmates from buying magazines by mail violated his first amendment rights. In an unpublished one-paragraph judgment, Judge Pickering adopted the recommendation of a magistrate and granted the jail officials’ motion to grant them summary judgment. In other words, he said that the petitioner’s claim of a first amendment right to religious materials which he wanted to get through the mail would be denied without further proceedings.

In my opinion, the Fifth Circuit Court of Appeals, not considering by many a liberal circuit or one that coddles prisoners, reversed Judge Pickering and said that the inmate’s first amendment rights had been violated. Why he did this is uncertain. But the Fifth Circuit relied on and cited a published decision of its own from several years before, Mann v. Smith. In that case, they struck down a jail rule prohibiting detainees from receiving newspapers and magazines, holding that it violated the first amendment.

What was of concern here was that in the Mann case, the prison officials had made much the same argument about fire hazards and clogged plumbing that were made by prison officials and accepted by Judge Pickering in the Johnson case. This was a case with almost identical facts in his own circuit, what the Ninth Circuit had tossed out with the Johnson case, and he did not cite it. Indeed, he turned his back on it and ruled the other way. We do not know whether he did not know the law or did not follow it. At the hearing, Judge Pickering had told the magistrate who had worked on the matter and he had “goofed” and that he was unaware of the law and the recent, binding precedent in his own circuit.

There are many other reversals, which continue to concern me for the same reasons that I remain concerned about the Johnson case and about the Abram case.

One of them is a case called Arthur Loper v. United States. This is another case in which Judge Pickering was reversed in an unpublished Fifth Circuit opinion, which again means that he violated “well settled principles of law.” This case dealt with an enhanced sentence that the Fifth Circuit found he had imposed improperly on a criminal defendant. When the defendant made a motion for the sentence to be corrected, Judge Pickering denied the inmate’s motion without giving him a hearing but without even waiting for the government to respond. On appeal, the Fifth Circuit reversed Judge Pickering’s denial of the motion, noting that the government conceded that the defendant was correct, and that an error had been made that prohibited the judge from imposing the sentence that he did. The Fifth Circuit also cited the statute under which the defendant’s motion, which requires that under ordinary circumstances, the trial judge “shall . . . grant a prompt hearing” and “make findings of fact and conclusions of law” on the petitioner’s claims. The Fifth Circuit criticized Judge Pickering for denying the motion in a “one-page order that did not contain his reasoning.” And then the court went on to remind him that “[a] statement of the court’s findings of fact and conclusions of law is normally indispensable to appellate review.” Reading this case, I can only wonder why Judge Pickering did not abide by the statute and follow the law. Was he unaware of the requirements of the law or had he decided to follow his own view of what the law should be on the matter?

There is another case in which Judge Pickering denied a petitioner’s motion for a hearing and missed controlling precedent. This case was U.S. v. Marlon Johnson, in which a prisoner claimed that his rights had been violated because of ineffective assistance of counsel and asked that his guilty plea be set aside. The inmate claimed that he had asked his counsel to file a direct appeal of his conviction. Once again, in another unpublished opinion, the Fifth Circuit reversed Judge Pickering’s denial of the inmate’s motion, explaining that the inmate’s “allegation that he asked his counsel to file a direct appeal triggered an obligation to hold an evidentiary hearing.” This time the court of appeals relied on two of its published decisions for its conclusion, neither of which Judge Pickering mentioned in his ruling. Again, there was settled law in the circuit in which Judge Pickering was unaware of that he chose not to follow.

I know that something will likely be made of statistics purporting to show that Judge Pickering does not have an unusually high “reversal rate,” and that other judges, some appointed by Democrats, have higher numbers of unpublished reversals. Whatever these numbers purport to represent about the quantity of Judge Pickering’s reversals—and I cannot vouch for them one way or another, not knowing their source or meaning—they do not in any way erode the poor quality of his underlying opinions.

In addition to the many times that Judge Pickering has been reversed by the Court of Appeals for not knowing or following the law, there are many instances of Judge Pickering misstating the law in cases that were not appealed to a higher court and other cases in which he stated a conclusion without any legal support.

An example is a decision by Judge Pickering in a case called Barnes v. Mississippi Department of Corrections. In an earlier go-round in this case, the Fifth Circuit had reversed Judge Pickering on one point, and in this later opinion, he tried to explain that they did so, in part, on the basis of a 1993 Supreme Court case called Withrow v. Williams. In particular, Judge Pickering wrote that the Supreme Court, “acknowledged in Withrow that the Miranda warning is not a constitutional mandate, and merely a misreading of Withrow. I trust that Judge Pickering would now acknowledge that the Supreme Court recently made clear in Dickerson v. United States that the Miranda warning is indeed derived from a constitutional mandate.

An example of an entirely unsupported conclusion comes in a case called Holtzclaw v. United States, where Judge Pickering presided over a habeas corpus petition by a Federal petitioner whom he had convicted. Although this was the first habeas petition the prisoner had filed, Pickering termed the petition frivolous. He regarded the petition as restating claims that had already been made at trial. He dismissed it, and stated that he would order prison officials to punish the petitioner if he filed another frivolous petition. Judge Pickering also conducted a “survey” of cases within his district to determine how many frivolous habeas corpus petitions there were. However, in the section of his opinion dealing with the sanctions, he did not cite a single statute, rule of procedure, local
rule or case as support for his decision. He stated:

In the future, this Court will give serious consideration to requiring prison authorities to restrict rights and privileges of prison inmates by petitions before this Court. Specifically, this Court gives notice to Roger Franklin Holtzclaw that should he file another frivolous petition for habeas corpus in this Court will conclusively consider and very likely order the appropriate prison officials to restrict and limit the privileges and rights of Petitioner for a period of three to six months and that or that the Court will also consider other appropriate sanctions. Petitioner Roger Franklin Holtzclaw is instructed not to file further frivolous petitions.

Judge Pickering relied on no authority when he threatened to impose sanctions. This sort of action by a federal judge is disturbing. Through consideration and passage of habeas corpus reforms in 1996, Congress has made very deliberate decisions about what sanctions ought to be imposed for frivolous and repetitious petitions. In Holtzclaw, Judge Pickering went beyond Congress’ intent, and in what could be described as judicial activism, threatens sanctions not contemplated by the statute.

Another example of Judge Pickering’s misunderstanding the basics of Federal practice and due process occurred in a case called Rudd v. Jones, where he presided over a prisoner’s civil rights claim before the enactment of the Prison Litigation Reform Act. He properly noted that the Supreme Court required that a pro se plaintiff is “entitled to have his complaint liberally construed” and admitted that, under this rule, the complaint “could be construed to state a cause of action.” Nevertheless, he claimed that the complaint was stated in only conclusory terms and decided that, “based upon previous experience with complaints that are couched in such a highly conclusory fashion, this Court is aware of the pitfalls in such motions, and very rarely successful and very seldom come forward with any facts that would even justify a trial.” Therefore, on his own motion, the Judge ordered the plaintiff to refile the complaint with more specific allegations or have the case dismissed before defendant had to respond. He also did another “survey” to prove that Federal courts were wasting their resources on frivolous prisoner civil rights claims.

In refiling the plaintiff to refile, Judge Pickering entirely disregarded Federal Rule of Civil Procedure 8, which requires only notice pleading. This is a basic tenet of the American system of jurisprudence, laid out by the Supreme Court in 1957 in Conley v. Gibson.

In yet another case, Judge Pickering disregards the applicable law. In United States v. Macachran, he denied a habeas corpus petitioner’s motion for recusal without referring the matter to another judge. The petition filed avadavits stating that the judge had a personal bias against him. The relevant statute, 28 U.S.C. §144, states:

Whensoever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

According to the statute, the Judge had to allow another judge decide whether he should be recused or not. However, Judge Pickering did not follow the law, and he decided the case himself stating that it was false. In support of his decision, he cited the dissent in a Fifth Circuit case.

I am also concerned about Judge Pickering’s rulings and the attitude they signal on one of the most precious rights we have as Americans: voting rights. In Fairly v. Forrest County, a 1993 case, Judge Pickering rejected a “one-person, one-vote” challenge to voting districts that deviated in population the amount deemed presumptively unconstitutional by the Supreme Court. He called the doctrine of one-person, one-vote “obtrusive,” expressing skepticism about the role of the Federal courts in vindicating the Voting Rights Act in order to ensure meaningful participation by all citizens in elections. In that case he also denigrates the value of each citizen’s vote, arguing that the impact of any malapportionment is “frivolous” because an individual voter holds so little power. While we have always known about the power and value of individual votes, the last Presidential election has certainly taught all of us a new respect for the impact of each citizen. Judge Pickering’s disregard for such a vital American right and for the worth of each American’s vote is extremely troubling.

Additional questions arise from another disturbing trend that emerges from a review of Judge Pickering’s opinions, published and unpublished: his habit of inserting his personal views into written decisions in such a way as to create a terrible impression of bias to categories of plaintiffs and hostility to entire types of claims before the Federal courts.

One entire category of claims in which Judge Pickering demonstrates hostility and bias is employment discrimination actions. This is also a category of cases where an examination of the judge’s unpublished opinions was crucial, because over the last 12 years on the Federal bench, he chose to publish only one of his employment discrimination decisions. The remaining 12 were all among the unpublished decisions he produced to the committee upon request after his first hearing last October.

What is significant in these cases are the times in the unpublished opinions that Judge Pickering went beyond merely ruling against the plaintiff to make unnecessary, off-the-cuff statements about all the reasons he believes plaintiffs claiming employment discrimination should not be in court, and about the general lack of substance of claims brought under the federal anti-discrimination statutes.

For example, in a 1996 case, Johnson v. Southern Mississippi Home Health, Judge Pickering did not limit his opinion to a legal conclusion based on the facts presented. Instead he made sure to note that:

The fact that a black employee is terminated does not automatically indicate the discrimination. The Civil Rights Act was not passed to guarantee job security to employees who do not do their job adequately.

In a case called Seeley v. Hattiesburg, No. 2:96-CV-327PG, (S.D. Miss. Feb. 17, 1998), where he should have limited himself to the facts and the law, Judge Pickering went on to comment about other matters relating to race discrimination lawsuits apparently on his mind at the time, writing that:

[T]he Courts are not super personnel managers. In order to make every employment decision made regarding minorities... . The federal courts must never be places for haven for employees who are in a class protected by statute. It is the courts, in fact are employees who are delinquent in their duties.

In a credit discrimination case, Judge Pickering ruled on the case before him, and then included a lengthy lecture giving his very personal views on anti-discrimination laws. He wrote:

This case demonstrates one of the side effects resulting from anti-discrimination laws and racial polarization. When an adverse action is taken against a plaintiff, and the laws, there is a tendency on the part of the person affected to spontaneously react that discrimination caused the action. Sometimes this is true and sometimes it is not true. All of us have difficulty accepting the fact that we sometimes create our own problems.

After reading statements like those I have just read, it seems to me that a plaintiff with a discrimination claim, reading or knowing about Judge Pickering’s hostile position toward anti-discrimination laws and claimants, would be justified in fearing that
the judge had already made up his mind.

Such blatant editorial comments, reflecting such a narrow view of the important goals of our Nation’s civil rights laws, and coming from the pen of the oft-supposedly learned judge’s personal views, are troubling. Judges are supposed to inject their own personal beliefs into a case.

Judge Pickering voiced another disturbing aspect of his views on employment discrimination cases almost as an afterthought at his second hearing. In an attempt to explain his statements on the weakness of many of these cases in response to Senator KENNEDY, Judge Pickering demonstrated a troubling misunderstanding of the role of Equal Employment Opportunity Commission in reviewing employment cases. He stated that he believed that, “the EEOC engages in mediation and it is my impression that most of the good cases are handled through mediation and are resolved. The cases that come to court are generally the ones that the EEOC has investigated and found that there is no basis, so then they end up in court.” But this is completely wrong. The EEOC has a backlog of almost 35,000 cases. Both parties must agree to mediation. The commission lack resources. Yet Judge Pickering had already prejudged employment discrimination cases filed in court, without merit. That kind of erroneous and unfair a generalization about the strength of discrimination cases by a Federal judge responsible for presiding over them, was extremely disconcerting. That a Federal judge, on the bench for a dozen years, could so misunderstand the legal and practical mechanisms behind employment discrimination cases was disturbing.

While fair treatment in employment on the basis of race, sex, national origin, age, and disability is fundamental to the American dream, and crucial to a free and thriving economy, due process in criminal proceedings can be a matter of life and death. Here, too, Judge Pickering has misunderstood the law and injected his personal views.

In a 1995 case, Barnes v. Mississippi Department of Corrections, Judge Pickering presided over a habeas corpus case in which a prisoner claimed that his confession was involuntary because it was induced by promises of leniency. The judge denied the petition and the Fifth Circuit reversed his decision. After remand, he again denied the petition, stating that granting such a *habeas petition* “is far more cruel than denying to a known murderer a procedure right regardless of how important that right is.” He cited the Bible and Coke’s treatise to make the point that habeas corpus should be limited to petitioners who can prove actual innocence and Coke’s treatise to make the point that habeas corpus petitioner claiming to have been denied access to the courts and received ineffective assistance of counsel. He had pleaded guilty to a capital charge of murder at age 15 and received a life sentence. He claimed that his lawyer had threatened him with the gas chamber if he did not plead guilty and that his lawyer did not make important motions, such as a motion to suppress his confession. He stated that he did not know how to obtain relief from the courts for several years because of his youth and because his representatives misled him. Judge Pickering denied the claim, and devoted a third of his opinion, three pages of a nine-page opinion only to the habeas corpus should not be allowed unless a petitioner can prove actual innocence. In this unusual opinion, he cited the and with significant mental disabilities, accepted pleas offered by the prosecution. The third, Daniel Swan, the only competent adult of the three, was offered a plea up to the last minute, but chose to go to trial, and was convicted of all three counts and areas of the law whether the EEOC was unaware of the law in different areas or whether he was trying to impose his own views in spite of the law. Another area of great concern to me—Judge Pickering’s intervention on behalf of a convicted criminal—raises this same fundamental question.

In this 1994 case, United States v. Swan, Judge Pickering presided over a case brought against three people accused of burning a cross on the lawn of an interracial couple. The defendants, one a juvenile and the other with significant mental disabilities, accepted plea bargains offered by the prosecution. The third, Daniel Swan, the only competent adult of the three, was also offered a plea up to the last minute, but chose to go to trial, and was convicted of all three counts brought by the Government. The story of what happened next is what troubles me about Judge Pickering.

But before I get to that, I think it is important for us to understand exactly what the facts were in the case. From the trial transcript we know that on a night in early January of 1994, three young men hanging out and drinking in front of a convenience store got the idea to go and burn a cross on the lawn of a local family where the husband, Earnest Polkey, was a white man, and his wife, Brenda, was African American. Testimony at trial shows that two of the defendants, Jason Branch, who was at the time a juvenile, and Daniel Swan, who was the moving forces behind this idea. The third man, Mickey Thomas, had a very low IQ and mental difficulties. It really

**The request came in 1995—13 years after the trial. As he put it:**

Plaintiff had a fair criminal trial. He was, and is, entitled to nothing more. He was not entitled to a perfect trial. No such trial can be plaintiff that wants DNA testing now thirteen years later. He wants a new trial. A new trial, now, 13 years later, would be much less reliable than the one that occurred 15 years ago.

As Judge Pickering may well know, over the last decade, post-conviction DNA testing has exonerated well more than 100 people, including 11 who were awaiting execution.

I have introduced legislation that would, among other things, afford greater access to DNA testing by convicted offenders. Senator HATCH and Senator FEINSTEIN have also introduced bills to promote the use of DNA testing in the post-conviction context.

In recent weeks I joined with Chairman HATCH and others in introducing a bill drawn from these earlier efforts. Attorney General Ashcroft has stated that “DNA can operate as a kind of truth machine, ensuring justice by identifying the guilty and clearing the innocent.” Judge Pickering appears in this case to have creation to his own oft-expressed view that habeas corpus should be considered would be to establish actual innocence.

I have asked in a number of different cases and areas of the law whether Judge Pickering was unaware of the law in different areas or whether he was trying to impose his own views in spite of the law. Another area of great concern to me—Judge Pickering’s intervention on behalf of a convicted criminal—raises this same fundamental question.
was Branch and Swan who referred to the Polk family using awful racial slurs, and together they cooked up this idea.

After deciding what they would do, they moved into action, and using Daniel Swan’s pickup truck, his wood, his nails, his gasoline and his lighter, the three men constructed a cross, took it to the Polk family’s front lawn, leaned it up against a tree, and lit it on fire.

Nordy, the three were caught by the FBI and all three were charged with the identical counts: 18 U.S.C. 241, conspiracy to deprive victims of their civil rights, 18 U.S.C. 3631(a), intimidation on account of race, and 18 U.S.C. 844(h)(1), the use of fire in the commission of a felony. All three were also offered a plea bargain which would result in little or no jail time, and two of them took the offer.

Two then, Jason Branch, the minor, and Mickey Thomas, whose mental disability, took the deal. They decided not to roll the dice with a jury, and to admit their responsibility for the crime. These kinds of deals happen every day. They permit the justice system to function, and they offer defendants opportunities to admit their guilt.

One of the defendants, Daniel Swan, didn’t take the offer. Instead, Mr. Swan, who had boasted to friends before he was caught that he would never do any time even if he was caught, decided to take his chances in front of a jury. Well, it was not a wise decision for Mr. Swan, because once the jury heard the evidence that I recounted earlier, they convicted him of all counts. And that is where Judge Pickering’s unethical behavior comes in.

Instead of doing what the law required of him and sentencing Daniel Swan to the congressionally required mandatory minimum sentence of 5 years for his conviction of the use of arson in a felony, he started to act like one of Daniel Swan’s defense attorneys. His motive for doing so, it appears that the Justice Department drop the arson charge so Swan could get a more lenient sentence.

Why would the Government drop a charge after having secured a conviction in such a terrible hate crime? Why would the prosecution agree to imposition of such a reduced sentence for someone already found guilty by a jury of his peers? According to documents that the Department of Justice produced to the committee only minutes before Judge Pickering’s second hearing was to begin, and documents that they agreed to make public in a heavily redacted form a week after that, Judge Pickering made them an offer that they refused. He threatened them with bad law—with a decision that would have called into question the applicability of the arson charge to cross burnings. And he threatened to make— and he did make—a motion for a new trial for Mr. Swan—a motion for which there would have been no basis in law.

He badgered them, ordering them in extraordinary terms to consult personally with the Attorney General, to report on all prior Justice Department prosecutions for cross burnings, and to agree to dismiss an already secured conviction on the theory that the law did not permit the result he sought. And when the prosecutors, career assistants in the United States Attorneys’ Office and career prosecutors in Washington, refused to cave in to his bullying, Judge Pickering took things a step further, and he called an old friend, then in a high-ranking position at the Department of Justice. As he admitted in a letter to me and in testimony at his second hearing, Judge Pickering, unhappy with the answer he was receiving from those prosecuting the case, called the Assistant Attorney General for the Civil Division, a friend of long standing from Mississippi, to, as he explained it, express his frustration with the prosecutors. Judge Pickering insisted in his testimony to the committee that he did not ask his old friend to do anything or take any action but he did deny the contact.

This sort of contact with the Department of Justice during a pending case is extremely troubling, and these sorts of ex parte contacts are expressly prohibited by every code of conduct and canon of ethics ever written, and for good reason. The credibility of our entire system of justice rests on the protection of the independence of every trial, criminal or civil is fair and above board, and that no one side has any real or perceived advantage. Judge Pickering’s phone call and actions undermine that assumption in very disturbing ways.

Judge Pickering and his defendants in this matter will tell you that he intervened in this case not because he took pity on Daniel Swan, a convicted hate criminal, but because he was concerned about whether the sentences handed down to the three defendants. He blamed the Government for agreeing to lower sentences for the two parties who pleaded guilty and then “recommending,” as he inaccurately puts it, a higher sentence for the party who took his chances with a trial. He tried to give the impression that upon the sentencing for Mr. Swan he was surprised to learn about certain aspects of the crime and the defendants’ behavior, but we all know from examining the record, that none of the defendants was sentenced until after Mr. Swan’s trial, until after all the testimony about their actions and relative culpability had been revealed in sworn public testimony. Judge Pickering is the one who sentenced all these defendants after having presided over the case.

Moreover, I know of no other criminal cases in which Judge Pickering intervened based on a concern about disparate sentencing or another case in which he took action to avoid imposing a sentence based on a statutory mandated minimum. His defenders will point to a few cases where he properly showed leniency within the law, but they are different from this one. In those cases it is clear he had the legal discretion to reduce sentences, but those advocating this nomination can point to no specific legal justification for doing so.

The law has very real consequences, as this letter from Mrs. Brenda Polkey makes clear. It was sent to me last year when I was Chairman of the Committee. My now-deceased husband, Ernest Polkey, and I were the victims of a cross-burning at our home in Improve, Mississippi in 1994. We had purchased the home in Southern Mississippi while I was still active military and my husband had retired from the military.

The cross-burning case was prosecuted by the Justice Department in Judge Charles Pickering’s court.

I write to express my profound disappointment in learning of Judge Pickering’s actions toward the defendant, Daniel Swan. As you can imagine, my family suffered horribly as a result of the conduct committed by Mr. Swan and the two other defendants. My daughter actually saw the cross in our yard the morning of the incident. I still have the yard the morning of the incident. I still have a photograph of the cross that I took that morning to make sure that the crime was documented properly.

The trial of Daniel Swan was extremely emotional for me and my family. As a native Southerner, I had grown up in the 1960’s with violent acts based on race, and I lost a member of my family due to a racial killing. I never imagined that violence based on racism would come my way again in the 1990’s. With the presentation of the evidence, and my testimony at the trial, the local NAACP gave me a certificate for my role in pursuing the case.

I experienced incredible feelings of relief and faith in the justice system when the predominantly white Mississippi jury convicted Daniel Swan for all three civil rights crimes. I had hoped against hope that the jury would do the right thing and convict Mr. Swan of this horrible deed. The jury came to a guilty verdict on all three counts after only two hours.

My faith in the justice system was destroyed, however, when I learned about Judge Pickering’s efforts to reduce the sentences of Mr. Swan. I can only explain what his actions have done to my long-standing opinion that we were correct in helping to prosecute the case, in trying to bring about justice and in trying to prevent hate crimes from being committed against other persons. I am astonished that the judge would have gone to such lengths to thwart the judgment of the jury to reduce the sentence of a person who caused so much harm to me and my family.

It is very much open to question his effort to promote Judge Pickering to a higher court. Respectfully yours, Mrs. Brenda Polkey.

When I raise questions about this case and Judge Pickering’s involvement in the case and suggest it violates the Canons of Judicial Ethics, it is not just my opinion. It is the opinion of some of the Nation’s foremost legal scholars on judicial ethics. Let me read to you what some of them have said. Professor Stephen Gillers of the New York University School of Law, one of the foremost legal ethics experts in the country, told Senator Edwards after Judge Pickering’s hearings: “Judge Pickering exceeded
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his powers as the trial judge in the Swan case in a way that undermined decisions of the political branches of government. He then sealed the Order that would have fully revealed his actions.

The professor concludes that this is a violation of Canon 2A and 3A(1) of the Code of Conduct for U.S. Judges because of his failure to respect and comply with the law or to be faithful to the law. He has used his position not only for the judgment of the prosecutors, but also for the judgment of the legislators, this Senate and the House, instead of sticking to his role as a judge. And by sealing the order that revealed his position, he made certain that no judicial review of his actions could occur.

Professor John Leubsdorf, legal ethics professor and Judge Lacey Distinguished Professor in Law at the University of Chicago Law School, agreed with Professor Gillers. Professor Leubsdorf, who has been studying and teaching Legal Ethics for 25 years, has taught at Columbia, Cornell, and the University of California-Berkeley. He has published articles in the Harvard, Yale, Stanford, Texas, NYU, Pennsylvania, Minnesota, and Cornell law reviews, could not have been clearer. After reviewing the judge’s actions, he concludes that whatever Judge Pickering’s motives may have been, this was no way for a judge to behave,” and that he “cannot escape the conclusion that Judge Pickering departed from his proper judicial role of impartially the Swan case to become an advocate for the sentence he considered proper.”

Steven Lubet, a Professor of Law at Northwestern University Law School, director of the law school’s Program on Advocacy and Professionalism, and the author of numerous articles on legal ethics, reached much the same conclusion. He tells us that, “Judge Pickering’s actions raise serious questions about the Code of Conduct for United States Judges. In particular, it appears that Judge Pickering initiated a prohibited ex parte communication in violation of Canon 3A(4),” and that his, “extended efforts to reduce Swan’s sentence for cross burning appear to have compromised his impartiality, taking him nearly into the realm of advocacy, thus implicating Canons 2A and 3A as well.”

The ethics concerns raised by the judge’s behavior in the cross burning case are not the only ethical problems Judge Pickering’s nomination presents. There is also the very serious matter of his having solicited letters of support and having asked to review them before forwarding them to the Justice Department and to the Senate. As Professor Gillers for NYU explains, this is a matter of grave concern. The letter, which has been made a part of the record, recounts the various Canons of Conduct for Judges implicated by this behavior, and is just another reason why I cannot approve of Judge Pickering’s elevation.

I should note that Judge Pickering’s behavior in this matter is similar to that of a nominee from more than 20 years ago, Charles Winberry. Nominate to the U.S. District Court in North Carolina by Democratic President Jimmy Carter, Mr. Winberry’s nomination was defeated by the Judiciary Committee in 1980. Among the grounds on which I opposed this nomination, sent to the Senate by a President of my party, were my objections to Mr. Winberry’s having solicited letters from law professors appearing before him, if he were confirmed, and for asking for blind copies of those letters.

The increasing frequency of nominees campaigning for confirmation to the federal bench is a troubling development and one that threatens the very independence of our judiciary. I was concerned about it in 1980 and I remain concerned about it in 2002.

During the course of these proceedings, some falsely contended that Democratic Senators have called Judge Pickering a racist. That did not happen and that criticism is a smoke-screen to obscure the real problems with this nomination. I attended the nominations hearing and I witness and I witnessed Democratic Senators asking questions and the nominee being given opportunity after opportunity to make his best case for elevation to the Fifth Circuit. Some have even insinuated that the nominees who oppose this nomination are anti-Southern or anti-Christian, a smear that as wrong as it is ugly. The talking points distributed by the other side are partisan, political and intentionally misleading. They have been accepted and repeated by some who have failed to review the record. That is unfortunate.

I think the nominee’s past views and actions during a difficult time in Mississippi’s history were not irrelevant, but I based my decision on his years on the bench and the record amassed and reviewed at our hearings.

So let me sum up for my colleagues what Judge Pickering’s own record makes clear. Judge Pickering’s record is replete with examples of bad judging and is littered with cases that demonstrate a misunderstanding of the law in many crucial and sensitive areas. Judge Pickering’s record shows a judge inserting his personal views into his judicial opinions and putting his personal preferences above the law. It is a record that does not merit this promotion to one of the highest courts in the land. Based on Judge Pickering’s record, I will vote against invoking cloture, and should cloture be invoked, I will vote against this nomination.

If Judge Pickering’s nomination is not ultimately successful, he will nonetheless remain a Federal judge of the Southern District of Mississippi with life tenure. He will be responsible for presiding over trials and cases that matter to the lives and well-being of many people in Mississippi and from elsewhere. He has served as a prosecutor, a State legislator, a local leader, and now as a Federal judge.

The oath taken by Federal judges is a solemn pledge to administer justice fairly to those who come before the court seeking justice. It extends to those who are rich or poor, white or black, Republican or Democrat, without regard to gender or sexual orientation, national origin or disability.

Judge Pickering remains a very important and powerful person in Mississippi. I understand that he may be the only Federal judge who sits in Hattiesburg. The judge’s ability faithfully to discharge the duties of the office are important every day, on every case, with respect to every claim and regarding every litigant. I bear him no malice and wish him and his family well.

Parliamentary inquiry: How much time remains for the distinguished Senator from Utah and myself?

The PRESIDING OFFICER. Each side has 7 1/2 minutes.

Mr. LEAHY. Mr. President, I will yield 3 minutes to the distinguished senior Senator from Massachusetts in just a moment.

I would hope, after this debate, we might start debating judicial nominees based on the facts and not on some of the innuendoes we have heard.

Mr. President, before I yield, I understand that again we are reserving the last 5 minutes for the distinguished senior Senator from Mississippi; is that correct?

The PRESIDING OFFICER. That is correct. You asked for 5 minutes, but you will not have 5 minutes after allotting the 3.

Mr. LEAHY. I understand. I thank the distinguished Presiding Officer, who is, after all, a model of propriety and fairness.

I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the nomination of Judge Charles Pickering on his record. I want to be absolutely clear about that. Charles Pickering has a disturbing record as a U.S. district court judge that simply does not qualify him for appointment to the Fifth Circuit. He has often been hostile to plaintiffs bringing civil rights claims, he has questioned the value of important constitutional protections such as the right to vote,” and he has tried to restrict habeas corpus. His cases are filled with dicta and with expressions of his own personal opinion. This all calls into question his ability to enforce statutory and constitutional protections and maintain judicial temperance.

The States of the Fifth Circuit are among the poorest in the Nation. They have a population that is 42 percent minority—the highest of any circuit. For many years, the Fifth Circuit had a critical role in the Nation’s history in applying and interpreting the civil rights laws. Not long ago, the circuit was hailed for its courage in protecting
the civil rights of African Americans. When Congress passed the 1964 Civil Rights Act and the 1965 Voting Rights Act, many State and local governments in the South resisted these measures. Federal judges such as E. Martin Durbin and John Minor Wisdom helped to make the promise of equality a reality by enforcing these landmark laws of our time. It is particularly important that a judge appointed to this court have a commitment to civil rights, to the constitutional safeguards that protect all Americans, and to the rule of law. I am disturbed by the rhetoric I have heard today that those of us who oppose this nomination are a "lynch mob." This rhetoric is a profoundly cynical misuse of race and disregards the lessons that we should all have learned from history. Those who cannot tell the difference between a mob bent on murder and a crowd of innocent individuals solely because of the color of his skin, on the one hand, and those of us in the Senate who seek to focus on genuine issues in Judge Pickering's record, on the other hand, needs a serious history lesson. Frankly, such a comparison is not only unfair, but it does an injustice to those African Americans who suffered and died at the hands of real lynch mobs in the South, including in the State of Mississippi. This is not a lynch mob; this is reasoned debate, and it is part of our constitutional role of advice and consent to engage in such debate. Judge Pickering's troubling record on civil rights and his injection of his personal opinion can be seen in his extraordinary intervention on behalf of a cross-burning defendant. Pickering repeatedly pressured the Federal Government to drop a charge against a convicted cross-burner. The State's major African American Bar Association—the Magnolia Bar Association—has written a letter to the Committee opposing Judge Pickering. The State's major African American Bar Association—the Magnolia Bar Association—has written a letter to the Committee opposing Judge Pickering. He is also opposed by Eugene Bryant, President of the Mississippi State Conference of the NAACP, which represents one hundred chapters of the NAACP. Democrats have not smeared Judge Pickering's reputation by examining his record. Judge Pickering has a complex legacy. On the one hand, he testified against the KKK and has spoken in favor of racial reconciliation. On the other, he has opposed civil rights laws, and the concept of "one-person, one-vote" under the Voting Rights Act. Democrats on the Judiciary Committee have never said that he is a racist. But they have determined what sort of judge he will be, not what kind of neighbor he is or the nature of his historical legacy. His 12 years as a district court judge provide us with a clear record that he is unwilling to apply or respect the law when he disagrees with it, and I will vote against his nomination.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes 29 seconds remaining.

Mr. LEAHY. I yield the 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Judge Pickering has a duty to follow the law and the canons of judicial ethics whether or not he agrees with them. His failure to do so in this recent case, cast doubt on whether he would do so if confirmed to the Fifth Circuit.

In a letter to Senator Hatch, Judge Pickering admitted that he has departed downward from other mandatory minimum sentences only when the Sentencing Guidelines allowed an exception.

I have heard some say that the fact that some black Mississippians may support Judge Pickering should be enough to have him confirmed. Many black Mississippians, including those from organizations representing thousands of African Americans in Mississippi have come out against Judge Pickering. The State's major African American Bar Association—the Magnolia Bar Association—has written a letter to the Committee opposing Judge Pickering.

Democrats have not smeared Judge Pickering's reputation by examining his record. Judge Pickering has a complex legacy. On the one hand, he testified against the KKK and has spoken in favor of racial reconciliation. On the other, he has opposed civil rights laws, and the concept of "one-person, one-vote" under the Voting Rights Act. Democrats on the Judiciary Committee have never said that he is a racist. But they have determined what sort of judge he will be, not what kind of neighbor he is or the nature of his historical legacy. His 12 years as a district court judge provide us with a clear record that he is unwilling to apply or respect the law when he disagrees with it, and I will vote against his nomination.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes 29 seconds remaining.

Mr. LEAHY. Will the Senator yield for a question?

Mr. HATCH. I can't right now because I have a limited time.

Every one of them can be answered. Let me tell the principal reason behind this. After we voted Judge Pickering out of the committee a few weeks ago, we held a press conference. One of the people who appeared with us at the press conference was one of the leading civil rights ministers of the South, a former head of the ACLU in Mississippi, really one of the most respected people in the civil rights cause. His life had been threatened. He came and spoke fervently for Judge Pickering. Before he did, I got up and I said: This is all about abortion.

After he spoke, he came up to me and he said: Senator, as you know, I am pro-choice, but you are absolutely right. This is all about abortion. Let me make that case by putting up this chart, the National Abortion Rights Action League.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I ask unanimous consent for 30 seconds for each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. The National Abortion Rights Action League, Pro-choice America sent this out to everybody that day, "Judge Pickering is not pro-life, he is pro-life because they know he is pro-life, even though he has agreed he will abide by the law. He will abide by Roe v. Wade."

Mr. HATCH. Mr. President, I have heard my distinguished friends on the other side say we have approved 167 judges but have rejected only 3 with a filibuster. Actually, that is not true. Miguel Estrada was filibustered and, of course, withdrawn. Priscilla Owen is presently being filibustered. Carolyn Kuhl, there is a threatened filibuster on her. These are all circuit court of appeals nominees who have been filibustered. Charles Pickering is being filibustered. This is a cloture vote to determine whether we can even have the dignity of an up-or-down vote.

Leon Holmes has been threatened with a filibuster. Janice Rogers Brown has been threatened with a filibuster. Claude Allen has been threatened with a filibuster. The fact is, we have never had a filibuster before in the history of the Senate in the history of the country, with regard to judicial nominees. I have heard a lot of comments about what a nice man Judge Pickering is and all of this; it is the record they disagree with. This is a man who has been a friend for a long time. I have heard my distinguished friends on the other side say that the only reason I am here is because I know he is pro-life, even though he has agreed he will abide by the law. He will abide by Roe v. Wade.
He will abide by the other abortion cases. That is what this is all about. Frankly, I have it on impeccable information that that is what this is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I am sorry the Senator from Utah was unwilling to yield to a question. He mentioned a threatened filibuster on Mr. Holmes. I assure him, we have cleared Holmes on our side. The Republicans could bring him up any time they want. There is no filibuster being threatened over here. I don’t know why they don’t bring him up. Gary Sharpe of New York, I don’t know why they don’t bring him up. These are judges they could bring up any time they wanted. They have been cleared for a vote on this side. We may vote for or against them. But Mr. Holmes is not being filibustered. That is a mistake on the part of the Senator from Utah.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, Charles Pickering has been subjected to the most intense and thorough scrutiny of any judicial nominee enduring since I have been in the U.S. Senate. After all of his opinions as a United States district judge have been read and reread and dissected, this is what the record shows.

In the Federal Circuit Court, he has demonstrated a sense of fairness and good judgment that has reflected credit on the Federal judiciary. He has become known throughout our State as someone who is above reproach, who is totally honest and honorable, and who applies the law without regard to race, creed, or ethnicity in an intelligent, thoughtful, and sensible manner.

He is widely respected as a United States district judge. I have no doubt that if confirmed by the Senate, he will serve with distinction and dedication on the United States Court of Appeals for the Fifth Circuit.

Before he became a Federal judge, Charles Pickering served ably in the Mississippi State Senate and was the chairman of the Mississippi Republican Party. He was elected county prosecuting attorney after he had been engaged in the practice of law for only 2 years. When Charles Pickering was nominated by the President to be a district court judge for the United States of Mississippi in 1990, he was approved unanimously by the Senate Judiciary Committee. And he was confirmed unanimously by the U.S. Senate.

As U.S. district court judge, he has become one of the highest rated judges in the Nation. Judge Pickering has received the highest rating from the American Bar Association. He has a lower reversal rate than both the national and Fifth Circuit average. Mr. President, Mr. Chairman of his cases have been affirmed or not appealed. Of those cases that have been appealed, Judge Pickering has only a 7.9-percent reversal rate, which is 20-percent lower than the national average of the Department of Justice, and two times lower than the average district court judge in the Fifth Circuit.

He has been endorsed by the current President and the last 17 residents of the Mississippi State Senate. He is endorsed by all of the major newspapers in Mississippi. He has also been endorsed by all of our State government officials who were elected statewide, including the Democrats who serve as Governor, attorney general, and secretary of state.

The people who know Charles Pickering the best are the residents of my State, and they overwhelmingly support his confirmation as a court of appeals judge.

It is time to end this effort to discredit and demean this good man. It is time for the Senate to do what is right and confirm this well-qualified and honorable nominee.

The PRESIDING OFFICER. Has all time been yielded back?

The majority leader.

Mr. FRIST. Mr. President, on leader time, I wish to make a few closing statements with regard to this vote and this nomination.

In a few minutes, we will have the opportunity to vote on whether Judge Pickering, whom the Senate has once before confirmed to the Federal district court without blemish, can continue the simple honesty of an up-or-down vote or whether he will be denied that fairness.

The vote matters to many people because none of the President’s judicial nominees has suffered more indignities and distortions than this superbly qualified man, Judge Charles Pickering.

Others in the past and over the course of the morning have spoken much more ably about the qualifications with regard to this superbly qualified individual, Judge Charles Pickering.

I know the passion of the two Mississippi Senators from whom we just heard. We heard Senator LOTT speak about this man, and we heard the strong support from Mississippi Senator THAD COCHRAN for this nominee, and we know of the hard work of the chairman of the Judiciary Committee, Chairman HATCH—all of whom have worked so hard to bring this nomination over the last 10 months since he was first nominated by President Bush—again, 2½ years ago.

It had always been my hope over the last 10 months since I became majority leader that we would be able to put much of the unfortunate history of the 106th Congress behind us when it came to judicial nominations. By that, I refer to the inaction on nominees in committee to their outright defeat in committee which denied the opportunity for all Senators to exercise the constitutional responsibilities of advice and consent, and the ability and opportunity to vote up or down on judicial nominations. I think we have made huge progress over the course of this year in that regard, thanks to Chairman HATCH.

While in many ways we closed that chapter of Senate history, a new chapter has opened and, once again, I believe we will see it today, and that is this unprecedented use of the partisan filibuster in the Senate to deny Senators the opportunity and the ability to have an up-or-down vote to speak clearly and the power to do that is through our votes, either for a judicial nomination or against a judicial nomination.

What bothers me as majority leader is what that says about our institution and about the future of this institution. Many of us have spoken to this and have warned over the past several months about the dangers of departing from this 200-year history of the Senate, traditions from which all of a sudden we are seeing this departure over the course of this year.

Today, in just a few minutes, once again we have a choice, an opportunity to move ahead and make progress and to discharge that responsibility of an up-or-down vote. This is not only a vote to decide whether the Senate will say yes or no to a man who, as we all know, is perfectly qualified, a good man, a man of high integrity and character, an able jurist who we all know will bring credit to the Federal appeals court.

To vote yes on cloture, in my view, is the latest referendum on whether or not we want to return to the 200-year history of the Senate, Senate cloture, the privilege to recognize and be part of. Indeed, it adds one more obstacle to the progress we could make as we go forward.

Finally, it does ensure that with this new course foisted on the Senate, we will be unable to meet that radical departure from 200 years of history with responses that will reestablish a more regular order of action in the future.

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Today, in just a few minutes, once again, we have a choice, an opportunity to move ahead and make progress and to discharge that responsibility of an up-or-down vote.
Mr. President, I close by simply saying I urge our colleagues to support an opportunity for an up-or-down vote—that is all we ask—on Judge Charles Pickering.

The PRESIDING OFFICER. All time has expired.

Mr. REID. Will the majority leader yield for a question not related to the Pickering nomination?

Mr. FRIST. Through the Chair, I will be happy to yield.

Mr. REID. Mr. President, we were originally going to have a vote on the global warming issue. It would have been about 12:45 p.m. This will necessitate that vote occurring around 1:15 p.m., but under the regular process here, on Thursdays we do not vote during the hour of 1 p.m. to 2:15 p.m. I wonder if the leader will be able to at this time indicate that the managers of the Healthy Forests issue should be here by 1:15 p.m., or thereabouts, so they can start on that issue prior to voting on the global warming issue, which I hope can occur at 2 o’clock because there are a number of people on our side who need to vote on that. I hope the leader understands what I am saying.

Mr. FRIST. Mr. President, I do. Let me talk to the managers before actually agreeing to anything. I have not talked with them about the scheduling. Before committing to a schedule, let me make an announcement right after this vote.

Mr. LOTT. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote be vitiated and that the Senate immediately proceed to a vote to confirm the nomination of Judge Charles Pickering to the Fifth Circuit Court of Appeals.

Mr. REID. I object. The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report. The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 400, the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.


The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Charles Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit shall be brought to a close? The yeas and nays are mandatory under the rule. 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) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. NELSON) is absent attending a family funeral.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote “nay.”

I further announce that, if present and voting, the Senator from Nebraska (Mr. NELSON) would vote “yea.”

The PRESIDING OFFICER (Mr. ENSIGN). Are there any Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 419 Ex.]

YEAS—54

Alexander
Allen
Bennett
Breaux
Brownback
Burns
Campbell
Chafee
Chambliss
Coehran
Cochran
Colman
Collins
Cochrane
Craig
Cotula
Criley
Crapo

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cavazos
Carper
Clinton
Corker
Corzine
Daschle
Dayton
Dodd
Edwards

Not Voting—3

Not Voting—3

The PRESIDING OFFICER. On this question, the yeas are 54, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

CLIMATE STEWARDSHIP ACT OF 2003

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A 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 interchangeably with passenger vehicle fuel economy standard credits, to limit greenhouse gases in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances.

Pending:

Lieberman/McCain amendment No. 2028, in the nature of a substitute. The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, we are now on global warming. Because of scheduling problems, the managers of the bill, Senator INHOFE, Senator MCCAIN, and Senator LIEBERMAN, have agreed to each give up 15 minutes on their side. Therefore, the vote will occur at 12:45. I ask unanimous consent that be the case—that the vote occur at 12:45.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Under the previous order, there are 90 minutes equally divided for debate between the chairman and the Senator from Washington, or their designees.

Mr. LIEBERMAN. Mr. President, I yield 6 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise to support the Climate Stewardship Act offered by Senators LIEBERMAN and MCCAIN and to cosponsor this aggressive plan to fight global warming.

When President Bush walked away from the Kyoto Protocol negotiations in March 2001, he promised the American people he would come up with an alternative. More than 2 years later, the President has yet to deliver on his promise and we simply cannot wait any longer to start making progress.

Here in the Senate we have a worthy plan that will cut greenhouse gas emissions. I want to applaud Senators Lieberman and McCain for presenting this meaningful and comprehensive plan.

The McCain-Lieberman bill will require mandatory greenhouse gas emissions reductions in the United States from broad sectors of our economy. Rather than just aiming to limit industrial emissions—as other plans have done—this legislation will require emissions reductions from four major sectors of the economy: electric utilities; industrial plans; transportation; and large commercial facilities. These four sectors contribute 80 percent of the greenhouse gases produced in America.

The McCain-Lieberman legislation relies on a national “cap and trade” system to reduce the air pollutants that contribute to climate change. These four sectors are familiar with this approach. It was first used on a national scale to combat acid rain under Title IV of the Clean Air Act
Amendments of 1990. A cap and trade system establishes an overall total limit on emissions and then allows pollution sources to trade emissions allowances. It gives participants the flexibility of the marketplace, and it works.

In fact, the acid rain program has reduced sulfur dioxide emissions from power plants—and it has done it at less than a quarter of the predicted cost to industry.

The McCain-Lieberman program will mandate that by 2010, the four sectors involved must reduce their emissions to 2000 levels. This is a meaningful and substantial reduction in emissions—a 5 percent reduction over the next 7 years.

Some critics suggest that you can’t “grow the economy” without emitting more greenhouse gases. We know that is not true. As the acid rain program proved, the cap and trade system works well.

There were nay-sayers in 1990, and they were proven wrong. There are nay-sayers now, and we must prove them wrong again.

This is also an opportunity for American companies to get ahead of trends that we know are coming. We know that the future of energy production lies in renewable energy and in alternatives to fossil fuels. I want American workers to lead the way, and I want American companies to share in the benefits.

It is projected that over the next 20 years, $10-$20 trillion will be spent globally on new energy technologies. This is an enormous market, and much of the investment will take place outside of the U.S., in places such as China. I want American companies to sell the technologies that will be needed and used throughout the world. By passing this legislation, we will give American companies incentives to pursue new, clean energy technologies. And new technologies mean new jobs—especially compared to older energy sources.

Today, for every 1 percent of market share, renewable energy technologies generate 12,500 jobs. By the same measure, the coal industry only generates 3,000 jobs.

So this new technology holds a lot of promise in helping American companies and the American economy.

Let me mention briefly the President’s Clear Skies Initiative. This administration’s approach to global climate change has been to focus on reducing greenhouse gas intensity. That is the ratio of carbon emission to gross domestic product. What most people do not know is greenhouse gas intensity is already declining. As the economy modernizes, it naturally becomes more efficient in terms of energy use, so when the President says he wants to reduce greenhouse gas intensity by 18 percent over the next 10 years with his Clear Skies Initiative, we should ask how much would the intensity decrease over the next 10 years without the Clear Skies Initiative.

The answer is stunning and underscores how little this administration really wants to do to reverse global warming. According to CRS, greenhouse gas intensity is projected to fall by over 14 percent over the next 10 years under current environmental regulations. That is nearly as weak as existing law. President Bush thinks the Federal Government’s primary climate change goal should be to encourage voluntary measures to reduce greenhouse gas intensity by only 4 percent over the next decade.

That is an utterly irresponsible approach to global warming. Our country should be taking an aggressive lead on reducing pollution. I am confident by using market-oriented strategies and new technologies, American ingenuity can find ways to reduce emissions without harming the economy. As I mentioned earlier, it will help our economy.

The threat of global warming is real. The Pacific Northwest stands to lose much from climate change from increasing severe storms to rising sea levels to negative impacts on our forests, our coasts, our salmon, and our agriculture. Those resources define the quality of life where I live.

In Washington State, increasing temperatures over the next decades could cause salmon in Puget Sound to migrate north. It could cause some crops to shift their natural habitats into Canada.

The western governors understand this. In September, the governors of California, Oregon, and my home State of Washington got together to curb greenhouse gas emissions by promoting tougher emissions standards for new power plants.

Governors and legislatures in the Northeast have taken similar measures.

Soon the Nation will face a patchwork of regional regulations, making it costly and cumbersome for industries to comply.

We in Congress need to take action since this White House has failed to act. It’s time for a real policy to reduce our impacts on the global climate.

We know that a clean environment contributes to the health and quality of life for every Washingtonian and for every American. The McCain-Lieberman bill is an important first step.

Let us urge our colleagues on both sides of the aisle to vote for this legislation.

I ask unanimous consent to have printed a New York Times article that reported on the regional regulations.

There being no objection, the material is ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 29, 2003]

**THE WARMING IS GLOBAL BUT THE LEGISLATING, IN THE U.S., IS ALL LOCAL.**

(By Jennifer 8. Lee)

WASHINGTON, Oct. 28—Motivated by environmental concerns, States have become the driving force in efforts to combat global warming even as mandatory programs on the Federal level have largely stalled.

At least half of the States are addressing global warming, whether through legislation, lawsuits against companies or initiatives by governors. In the last three years, State legislatures have passed at least 29 bills, usually with bipartisan support. The most ambitious is California’s 2002 law to set strict limits for new cars on emissions of carbon dioxide, the gas that scientists say has the greatest role in global warming.

While few of the State laws will have as much impact as California’s, they are not symbolic. In focusing on emissions of gases like carbon dioxide that can cause the atmosphere to heat up like a greenhouse, they include registries to track emissions, efforts to diversify fuel sources and the use of crops to capture carbon dioxide by taking it out of the atmosphere and into the ground.

Aside from their practical effects, supporters say, these efforts will put pressure on Congress and the administration to enact Federal legislation, if only to bring order to a patchwork of State initiatives.

States are moving ahead in large part to fill the vacuum that has been left by the Federal Government, said David Danner, the energy adviser for Gov. Gary Locke of Washington.

“We hope to see the problem addressed at the Federal level,” Mr. Danner said, “but we are not waiting around.”

There are some initiatives in Congress, but for the moment even the backers acknowledge that they are doomed, given strong opposition from industry and the Bush administration—which favors voluntary controls and most Congressional Republicans.

This week, the Senate is scheduled to vote on a proposal to create a national regulatory structure for carbon dioxide. This would be the first vote for either house on a measure to restrict the gas.

The proposal’s primary sponsors, Senator John McCain, Republican of Arizona, and Senator Joseph I. Lieberman, Democrat of Connecticut, see it mainly as a way to force senators to take a position on the issue, given the measure’s slim prospects.

States are acting partly because of predictions that global warming will damage local economies by harming agriculture, eroding shorelines and hurting tourism.

“We’re already seeing things which may be linked to global warming here in the state,” Mr. Danner said. “We have low snowpack, increased forest fire danger.”

Environmental groups and officials in state governments say that energy initiatives are easier to move forward on the local level because they span constituents—industrial and service sectors, Democrat and Republican, urban and rural.

While the coal, oil and automobile industries have big lobbies in Washington, the industry presence is diluted on the state level. Environmental groups say this was crucial to winning a legislative battle over automobile emissions in California, where the automobile industry did not have a long history of large campaign donations and instead had to rely on a six-month advertising campaign to make its case.

Local businesses are also interested in policy decisions because of concerns about long-term energy costs, said Christopher James, director of air planning and standards for the Colorado Department of Environmental Protection. As a result, environmental groups are shifting their efforts to focus outside Washington.

Ten years ago the assumption was that the climate treaty known as the Kyoto Protocol was the only effort, in town, said Rhys
Both, the executive director of Climate Solutions, which works on global warming issues in the Pacific Northwest states. But since President Bush rejected the Kyoto pact in 2001, the movement has gained momentum on the regional, state and municipal levels.

The Climate Action Network, a worldwide coalition of nongovernment organizations working on global warming, already has membership of state and local groups in the last two years.

The burst of activity is not limited to the states with a traditional environmental bent.

At least 15 states, including Texas and Nevada, have state electric utilities diversifying beyond coal and oil to energy sources like wind and solar power. Even rural states are linking their agricultural operations with local greenhouse gas regulations.

Oregon and Wyoming have all passed initiatives in anticipation of future greenhouse gas emission trading, hoping they can capitalize on their forests and crops to capture carbon dioxide during photosynthesis.

Cities are also adopting new energy policies. San Franciscans approved a $100 million bond initiative in 2001 to pay for solar panels. San Franciscans approved a $100 million bond initiative in 2001 to pay for solar panels.

San Francisco is also pioneering a carbon dioxide credit program in which property owners can buy credits for capturing carbon dioxide during photosynthesis. Cities are also adopting new energy policies. San Franciscans approved a $100 million bond initiative in 2001 to pay for solar panels.

According to the organization’s press release, “recent scientific assessments indicate that climate change is likely to increase winter rain and decrease snowfall in California.”

As the Senate knows, I am especially concerned about the potential impacts of climate change on California’s water supply. More than 36 million people live in California right now, and we expect to have 50 million people by 2020. Even without climate change, it would be a struggle to supply enough water for all of these people. But report climate change will further threaten a water supply that is already tight.

Models from NASA, Lawrence Livermore National Laboratories, and the Union of Concerned Scientists all indicate that climate change is likely to increase winter rain and decrease snowfall in California. More winter rain means winter flooding. Less snow means less water for the rest of the year.

But California’s natural environment as we know it depends on gradual runoff from snow. Furthermore, we have spent billions of dollars on water infrastructure in California that depends on this runoff. And yet we already struggle to provide enough water for our farms, our cities, and our fish and wildlife.

As my colleagues know, I have worked hard to plan for the future of California’s water supply. Climate change threatens even to make those plans insufficient.

We are already seeing alarming changes. According to scientists at Lawrence Livermore National Laboratories, the past century has seen a decline in spring and summer runoff in some California streams. In 1910, half of the Sacramento River’s annual runoff took place between April and July. Today, that number is closer to 35 percent and is continuing to decline. We can no longer count on this runoff. We are also already seeing a rise in sea level. Average sea level has risen considerably in San Francisco since 1850, with the largest increase occurring since 1925. My colleagues from coastal states understand the potential cost of rising sea levels to coastal communities.

We are seeing other effects of climate change throughout the world. The Union of Concerned Scientists has found that the global sea level has risen about three times faster over the past 100 years than the previous 3,000 years.

In July, the World Meteorological Organization released an unprecedented warning about extreme weather events. According to the organization’s press release, “recent scientific assessments indicate that climate change is likely to increase winter rain and decrease snowfall in California.”

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indicate that, as the global temperatures continue to warm due to climate change, the number and intensity of extreme events might increase.”

According to the World Meteorological Organization, the United States experienced 562 tornadoes in May of this year. The tornadoes killed 41 people. This was 163 more tornadoes than the United States had ever experienced in one month.

We are seeing similar record extremes around the world. These extreme weather events are a predicted result of climate change.

Climate change is also affecting some of our most protected places. Last November, the Los Angeles Times published an article about the vanishing glaciers of Glacier National Park in Montana. Over a century ago, 150 of these magnificent glaciers could be seen on the high cliffs and jagged peaks of the surrounding mountains of the park. Today, there are only 35. And the 35 glaciers that remain today are disintegrating so quickly that scientists estimate the park will have no glaciers in 30 years.

Closer to home for me, on October 12 of this year, the Los Angeles Times reported that glaciers in the Sierra Nevada are disappearing. Many of these glaciers have been there for the last twenty-four thousand years. We are seeing similar melting around the world, from the snows of Mt. Kilimanjaro in Tanzania to the ice fields beneath Mt. Everest in the Himalayas.

Dwindling glaciers offer a clear and visible sign of climate change in America and the rest of the world.

We are already seeing some of these changes. The science tells us to expect even more. The evidence that climate change is real is overwhelming: including reports from the National Academies of Science, the Intergovernmental Panel on Climate Change, and even the Congressional Budget Office.

To quote a CBO report released in May, “scientists generally agree that continued population growth and economic development over the next century will substantially increase greenhouse gas emissions and further warming unless actions are taken to control those emissions.”

The Intergovernmental Panel on Climate Change estimates that the Earth’s average temperature could rise by as much as 10 degrees in the next 100 years—the most rapid change in 10,000 years.

The latest evidence also indicates that climate change is likely to lead to more forest fires. Models indicate that warming will lead to dryer conditions in many places. Furthermore, warming is allowing bark beetles to spread farther north and to higher altitudes than ever before.

In parts of Alaska, bark beetles now have two generations per year instead of one, leading to drastic increases in population and destruction of our forests.

As we know too well, dry conditions and insect kill makes our forests into tinder boxes.

I strongly believe that we have the evidence that we need in order to act. Not addressing climate change will cost us dearly.

Yet, so far, the United States has not really taken action against climate change. Not only are we not part of the Kyoto Protocol, but the administration refuses to take part in shaping another solution. This is a big mistake.

We emit more greenhouse gases than any nation on Earth. The world is counting on us, and we have a responsibility to help.

We should be a leader—not an obstacle—when it comes to combating global warming. In his speech to the joint session of Congress—which many of us cited among the best we have ever heard—British Prime Minister Tony Blair challenged the U.S. to take action now.

Mr Blair said:

“Climate change, deforestation, the voracious drain on natural resources cannot be ignored. Inaction will hinder the economic development of the most vulnerable nations first and ultimately all nations.

Mr. Blair went on to say:

“We must show the world that we are willing to step up to these challenges around the world and in our own backyards. If this seems a long way from the threat of terror and weapons of mass destruction, it is only to say again that the world security cannot be protected without the world’s heart being won. So America must listen as well as lead.”

Prime Minister Blair is right. If we fail to act now, we will face devastating consequences in the future. We will impose those same consequences on future Americans and the rest of the world.

Continued failure to act will also further strain our relationships with our allies. These relationships are already tense enough.

The administration has said that we need more research before acting. I agree that we should continue to study climate change. But we also need to start reducing our emissions of greenhouse gases now.

Prime Minister Blair has committed to a 60 percent cut in Britain’s emissions by 2050. We need to make sure the U.S. is not left behind.

The McCain-Lieberman amendment is the right place to start. This is a modest amendment. We would need to be back to our current level of emissions by 2010. In reality, much of the reduction in “net emissions” come through increased carbon sequestration in forest and agricultural land. Emissions could actually increase as long as there is enough sequestration to offset the increases.

The amendment is comprehensive. The amendment covers six greenhouse gases and the vast majority of our greenhouse gas emissions.

The amendment is low cost. Repeated analyses have shown that cap-and-trade programs are the most cost-effective way to reduce emissions. According to the Massachusetts Institute of Technology, this amendment would cost less than $20 per household over the life of the program—we can afford this cost.

The amendment would not lead to rapid fuel switching to natural gas. According to the Massachusetts Institute of Technology, coal use would actually continue to increase under this amendment. Natural gas use would decrease from business as usual because the bill would spur conservation measures.

During the latest energy crisis, California showed that we can make a huge difference. This bill will help us create better incentives for conservation.

Even the Energy Information Administration, EIA, says that this amendment would not result in fuel switching. EIA was concerned about the costs of the original Climate Stewardship Act. I believe that the agency’s models are flawed and biased toward higher costs. But even those models indicate that programs would cost little and will not lead to price spikes.

There is a lot of misinformation floating around about this amendment. Some of the models were analyzing the Kyoto Protocol, which would require a 20 percent emissions reduction by 2010. This amendment requires us to get back to our current emissions by 2010, an entirely different proposition.

Other models are based on an “energy shock.” Coming from California, I am quite familiar with energy crises. Shocks happen when businesses do not have time to prepare. This amendment is not a shock. We are giving industry 7 years’ warning. According to the Massachusetts Institute of Technology, 7 years is enough time for the economy to adjust without job losses.

Businesses throughout the country have shown that efforts to reduce emissions can increase efficiency and actually save companies money. Voluntary programs simply are not doing the job. We need to give incentives for all companies to increase efficiency and cut emissions.

We need to reduce our greenhouse gas emissions from automobiles.

Many states are moving forward, and they are now pressing harder for Federal action.

Local officials are also pressing for a national plan. My colleagues know that I am partial to mayors. Recently, 155 mayors, including 38 from my State alone, signed a statement calling for national action.

State and local programs are important and I applaud these efforts. But we need national leadership on this issue.
The McCain-Lieberman approach has widespread public support. According to a recent national poll, three-fourths of Americans support this approach to global warming—including solid majorities from both parties. We need to listen.

We know that agreement on climate change is possible in the Senate. The Senate has passed a modest provision in the Energy Bill 2 years in a row. The Foreign Relations Committee has recognized the urgency of the issue for our diplomatic relations.

It is time for the entire Senate to go on record on this important topic. We need to show Americans and the rest of the world that we are listening and that we are doing something about climate change.

I believe we can unite behind this bill and move the debate forward.

As Mr. Blair said, we have a responsibility to listen and to lead. I urge my colleagues to support this amendment.

Mr. INHOFE. Mr. President, I will yield in a minute to the Senator from Nebraska.

Last night we went into a lot of detail in this debate and I used three groups of scientists, numbering over 20,000, who define the science on which global warming is based. Only two criticisms did I get from the other side. One was comments I made about supposedly misquoting Professor Schneider. After looking at this, I find I did not misquote him at all. He is one who adheres to the MIT study that says there is far less than 1 percent chance temperatures would rise to 5.18 degrees or higher, while there is a 17 percent chance that temperatures would rise lower than 1.4 degrees. These are the guys who are for this.

More significant—and this is setting the framework for this debate today. This is not about a pared-down bill. McCain-Lieberman are coming up with now. They have both said this is just a start.

I will quote Professor Wigley, one I was criticized for misquoting. We find out I did not. He said:

Senator Inhofe quotes my 1996 publication . . . where I pointed out that adhering to the emissions reductions outlined in the Kyoto Protocol would have only a small effect on the system. What he fails to point out is this analysis assumed that Kyoto was followed to 2010, and there were no subsequent system climate mitigation policies. The point of the paper was to show that Kyoto was to be considered as a stepping stone, a long and complex process of reducing our dependency on fossil fuels as a primary energy source.

The chart of Senator SUNUNU shows how little change would be possible under Kyoto.

I yield to the Senator from Nebraska for 8 minutes.

Mr. HAGEL. I very much appreciate the leadership of the chairman on this issue and on this important debate.

I am here this morning to discuss the United States' response to global climate change. How our Nation addresses global climate change may prove to be one of the most important economic and environmental decisions of our time. As we debate the McCain-Lieberman Climate Stewardship Act of 2003, it is important to keep in mind this is not a debate about who is for or against the environment. There is no Middle Ground. We want to clean air, clean water, a clean environment, or declining standards of living for their children and grandchildren. We all agree on the need for a clean environment. We all want to leave our children a cleaner, cleaner, more prosperous world.

The debate on climate change, however, has moved beyond the Kyoto protocol. In 1997, by a 50–5 vote, this body, the Senate, adopted the Byrd-Hagel resolution which stated the United States would not sign any international treaty that excluded action on the part of developing nations or that would cause serious economic harm to the United States.

However, the concerns about our climate have not abated. We should recognize the efforts of Senators MCCAIN and LIEBERMAN and others on this particular issue. Although I disagree with the approach they have proposed, I understand and share their concerns. It is important that we move forward in order to develop and implement practical policies to deal with climate change.

The McCain-Lieberman bill would create mandatory emissions reductions for greenhouse gases here in this country. The consequences of such mandates are severe. This bill would raise energy prices for consumers, agricultural producers, business, and industry, and have a very negative impact on our economy. The mandates would also be very difficult to reach.

The Department of Energy’s own independent Energy Information Administration projects the greenhouse gas emission levels in 2010 would have to be reduced by 14 percent in order to achieve the 2000 emission level quota set by this bill, not the 1.5 percent reduction that supporters of this bill are claiming.

This means utilities and manufacturers will have to find alternatives to coal, the predominant fuel used in this country. In most cases, this means switching to natural gas. That would mean higher costs for homeowners, businesses, industry, and farmers, as well as possible natural gas shortages. And a shift of this magnitude demanded by this bill for the utility industry would require natural gas production and pipeline capacity this country simply does not have nor will have in 2010.

We have recently seen the effects of high natural gas prices in this country. A recent GAO report concluded the natural gas price hike in the years 2000 to 2002 led to a 25 percent reduction in domestic production of nitrogen fertilizer and 43 percent in nitrogen imports. This was a significant blow to this country, especially to our agricultural producers.

Record demands and higher prices for natural gas caused America's farmers and ranchers to spend an additional $1.5 billion just to plant and fertilize their crops this past spring.

The question we are faced with is not whether we should take action but what kind of action would best address the climate change challenge we face now and into the future. Our actions should be focused on incentivizing and achieving voluntary emissions reductions; tax credits for emissions reductions; and research into climate change science and carbon sequestration. Closing the gaps in our knowledge, our science, our industry, and our technology builds a solid foundation for a wise climate policy for the future.

Although there are inconsistencies in the science, there has been a human impact on the Earth’s atmosphere—we all accept that—and we should consider how to mitigate the effects. The sooner we begin, the smaller and less painful the changes will have to be in the future. Global warming does not recognize national borders. The changes under consideration today are proposed solely for the United States, but our global warming policy must be broader. The United States alone cannot improve the Earth’s climate. The only way forward is through international cooperation and collaboration—engaging, helping, partnering with all nations, especially developing nations. Developing nations are quickly becoming the major emitters of greenhouse gases, but they are exempted from international agreements to reduce these emissions. There are some good reasons for this. These nations cannot achieve greenhouse gas reductions until they achieve higher standards of living. They lack clean energy technology, and they cannot absorb the economic impact of the changes necessary for emissions reductions. Our partnerships with developing nations can help increase the efficiency of their energy use and reduce their greenhouse gas emissions. Industrialized nations must help less developed nations by sharing technology so developing countries can leapfrog over the highly polluting stages of development that the United States and other countries have already been through. The Bush administration has taken the initiative in developing these public-private partnerships and projects with all developing nations.

The United States Chamber of Commerce has called for a Marshall plan for developing emissions-free technologies. Part of that plan includes the proposed public-private partnerships to developing nations. This will take time. We should be thinking and planning 20 to 50 years out.
By partnering with developing nations, we will export American technology and expertise, and improve all alliances along the way.

These are the types of plans the U.S. should be reviewing. Investments can be spread over time and gradual and effective can lead to individual, industries and nations—and it is the last remaining. It also allows all nations to participate in workable climate change policies. It is the only way to ensure both global climate change and local global prosperity.

Mr. President, I yield the floor.

Mr. NELSON of Florida addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, I yield my friend and colleague from Florida 6 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 6 minutes.

Mr. NELSON of Florida. Mr. President, thank you. And in 6 short minutes I want to give you my observations of why this is an extremely critical piece of legislation to the future of Planet Earth.

I bring back to my mind’s eye a picture that is embedded in my memory, looking into the window of our spacecraft 17 years ago back at Planet Earth. It is such a beautiful creation, suspended in the middle of nothing. It is a blue and white ball—blue from the oceans and white from the clouds—suspended in the middle of this black backdrop of space that goes on and on for billions of light years—an airless vacuum. And there, suspended in the midst of it all, is our home.

When you look at the rim of the Earth from space, you see a thin little film, and that is the atmosphere that sustains all of life. From space, the Earth looks so beautiful and yet it looks so fragile. From that experience of 17 years ago, it made me want to be all the more a better steward of this planet, particularly when, with the naked eye, from that altitude I could actually see, for example, coming across South America—with the color contrast—the destruction of the rain forest in the upper Amazon region and, from the same window of the spacecraft, see the results of that destruction. Looking to the east, to the mouth of the Amazon River, I could see the silt that discolored the waters of the Atlantic for hundreds of miles.

I give you that backdrop purely as an intro to tell you that when we face a major change in climate, it is going to have devastating effects on the very delicate ecological balance that we have on this Earth.

Clearly, one of the places that would be most devastated would be my own State of Florida, which has more coastline than any other State. The rising of the temperatures would cause the rising of the oceans. The scientific community, that has been fairly unanimous on this—despite what you hear in this debate, that there is this disagreement in the scientific community—it is overwhelming in the scientific community that what is going to happen is that the oceans are going to rise.

Can you imagine what that is going to do to a place such as my State of Florida? We are the only place in the development in the State is along the coastline? With the rise of the temperatures, that means the storms are going to be more ferocious and frequent.

Florida is this land we know as paradise, the part of the State that sticks down in the middle of something we know as “Hurricane Highway.” The storms are going to become more ferocious and frequent, and the plagues are going to be more intense.

If that is not enough for passing this legislation and blunting the critics of this legislation—you would think that argument would stand on its own, but there is even more. And I must say, I was delighted, in the hearing we had in our Committee of this issue, to see, for the first time, some American insurance companies step up and say this is going to be a problem.

In the past, European companies have stepped up. But now subsidiaries of those companies, doing business in America, are acknowledging the same thing, that it will have devastating effects upon our business climate here in this country.

For example, the insurance company, Swiss Re—this is their quote from our Commerce Committee hearing:

Swiss Re believes the best way to lessen potential loss is through sound public policy, utilizing market mechanisms which strike the right balance between environmental precaution and societal policy objectives.

Because the person testifying for Swiss Re said, “Climate change driven natural disasters are forecasted to cost the world’s financial centers as much as $100 billion a year over the next 10 years,” that should be sufficient reason for us to stop putting our heads in the sand and saying global warming is not a problem. We know it is a problem environmentally. Now we have to recognize that it is going to be a major problem with regard to American business and all of the investments we have, particularly since so much of our urbanized area is along the coast of the United States.

So, Mr. President, I wanted, as one voice, which strongly supports the McCain-Lieberman legislation, to speak in favor of it.

The PRESIDING OFFICER. The Senator’s time has expired.

Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I yield up to 10 minutes to Senator CRAIG.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. CRAIG. Mr. President, as many of my colleagues in the Senate know, I have been fascinated and awed by the complexity of the climate change issue for quite some time.

Certainly, being born and raised in the high desert region of the State of Idaho located in the rugged and majestic Pacific Northwest, I grew up with reverence for the natural beauty of our Nation and a deep respect for the awesome power of nature.

I have stated several times on the floor of the Senate that climate change is one of the most significant issues of our time. I have not retracted.

I come to the floor of the Senate today to both compliment my colleagues, Senators MCCAIN and LIEBERMAN, for their determination to legislatively address the issue of climate change and to object to the manner in which they have chosen to do so.

Their proposal, S. 139, The Climate Stewardship Act, is portrayed by its proponents to be a modest legislative attempt to reduce emissions of carbon dioxide and other greenhouse gases. It is not a hard word “modest” as an accurate descriptive term for the legislation when I measure the bill by what it does—it regulates carbon dioxide—a gas that is not a criteria pollutant under the Clean Air Act. It is not a toxic substance, and does not represent a direct threat to public health.

When I decided to enter politics, I was guided by a deep belief in personal freedom—the maximum amount possible for the individual that is consistent with an orderly society.

By freedom I mean the opportunity to achieve one’s true potential, whether as an individual, a community, or a business. Freedom spawns discovery and innovation and in turn discovery and innovation solve problems and create opportunities. Regulation is the antithesis of freedom. It certainly retards, if not completely extinguishes our natural desire to discover and be innovative, and yet, it seems more and more inclined to willingly accept the form of a regulatory state.

I am periodically awed by the pre-science of Alexis de Tocqueville’s 1839 work—“Democracy in America.” In Part II of Chapter 6, Tocqueville voiced perhaps his greatest concern for the future conditions of American democracy.

In general terms, he said that democracy have a sort of “despotism” to fear. That is, conditions of democracy include toward men’s equality, and in that equality, the government takes care of all of man’s necessities, needs, and desires, in order to maintain this patterned equality among men. Tocqueville’s description of this “soft despotism” aptly describes the modern regulatory state.

I note that there are 2,620 pages in the 1936 Federal Register, a year after the Federal Register Act was passed in 1935. In the Federal Register for the year 2000, there are 74,258.

A quote from Chapter 6 of Tocqueville’s work is quite pertinent...
to our discussion here. In discussing the regulatory threat, he states:

That power is absolute, thoughtful of de-
tail, orderly, provident, and gentle . . . It provides for their security, foresees and sup-
plies their necessities, facilitates their plea-
ures, manages their principal concerns, di-
 rects their industry, makes rules for their testaments, and divides their inheritances . . . The exercise of free choice is less useful and rare, restricts the activity of free will within a narrower compass, and lit-
tle by little robs each citizen of the proper use of his own faculties.

"Townshill goes on to note that regu-
lation is not at all tyrannical, but it hinders, restrains, estranges, stifles, and stultifies so much that in the end each nation is no more than a flock of timid and hardworking ani-
imals with the government as its shepherd.

Now, let me be clear, regulation, in-
deed, has its place. But this extremely powerful Government tool should be employed only as a last resort after facts developed by a comprehensive and balanced analysis clearly indi-
cate that it is necessary to protect the public welfare.

It is with this analytical perspective that I have reviewed carefully the un-
derlying scientific and economic sup-
port for this bill, S. 139.

The bill assumes that there is cur-
rently a definitive scientific basis for impos-
ing a regulatory structure on in-
dustry. I am unable to agree with that basic assumption. There is no defini-
tive scientific consensus that global

The changes observed over the last several decades are likely mostly due to human ac-
tivities, but we cannot rule out that some significant part of these changes is also a re-
flection of natural variability.

This is the third sentence in the sum-
mary at the very beginning of the re-
port.

Even a cursory reading of the report indicates that the uncertainties are real and they are significant. Indeed, the report uses the words "uncertainty" and "uncertainty" 43 times in its 28 pages.

Some press accounts have said that this report acknowledged a dire, near
term threat to the environment from climate change. This is not true.

One of the conclusions of the Report was that:

[a] causal linkage between the buildup of greenhouse gases in the atmosphere and the climate change during the 20th Century cannot be unequivocally estab-
lished.

Natural variations in climate that occur over decades and even centuries have been identified by the NAS as also playing a role in climate change, and so it is not correct to say that this problem results only from human ac-
tivities, or that reduction of emissions of heat-trapping gases will entirely solve it.

Mr. President, 2 years before the NAS prepared its 2001 "Analysis of Some Key Questions" it issued one of this country’s most comprehensive reports on climate change science entitled: "Research Pathways for the Next Dec-
ade."

The Pathways report is short on cre-
ative literature and long on technical

No. 1, there are significant gaps in scientific understanding of the way oceans and the atmosphere interact to act on the Earth’s climate.

No. 2, scientists need more data, es-
pecially from the oceans to better un-
derstand and predict possible changes.

It was humbling to get a glimpse of

Let me stop for a moment and reflect

Dr. Berrien Moore, who coordinated
the publication of the Pathways Re-
port, helped lead a discussion on where science and public policy intersect.

Two themes came through clearly in those discussions:

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No. 2, scientists need more data, es-
pecially from the oceans to better un-
derstand and predict possible changes.
The higher prices for energy and energy-intensive products that would result from a cap-and-trade program would reduce the real income that people received from working and investing, thus tending to discourage them from productive activity. That would compound the fact that existing taxes on carbon already discourage economic activity.

The only way to reduce CO₂ emissions from powerplants is to reduce the amount of coal, oil or natural gas consumed at the power plant. Placing a cap on emissions from powerplants means those plants simply will not be able to generate any significant amounts of new electricity. There are no control technologies like selective catalytic reduction or scrubbers for CO₂.

Capping CO₂ emissions from powerplants will make the current crisis in electricity markets permanent. It will force shutting down of most of U.S. coal fired steam electric generation prematurely and will essentially mandate reliance on new natural gas fired power plants without any assurance that adequate gas supplies will be available.

Further, a report by the U.S. Energy Information Administration found that reductions of SO₂, NOₓ, and CO₂ at levels consistent with the current proposal drives up electricity costs substantially. The report shows that electricity prices would rise by 21 percent by 2005 and 55 percent by 2010. The report goes on to attribute most of the rise in prices to controlling CO₂ emissions.

The report, Mr. President, also was prepared when natural gas prices were a third of what they are today which means that future electricity prices likely would be much higher because the report assumes that most new generating capacity would be gas fired.

The last point that must be addressed is the assertion that the United States is somehow out of step with the rest of the world on this issue. Climate change is as much an economic issue as an environmental issue. It is an imperative that we ensure that our global competitiveness is not compromised. Let’s not offer our nation to be duped into assisting our competitors in the global market to achieve competitive advantage under the subterfuge of environmental policy. When viewed in comparative perspective, the process by which environmental policy is developed and implemented has been far more conflictual and adversarial in the United States than in Europe or Japan.

In the U.S., while fines for violations have grown larger, numerous violations of environmental laws have been reclassified as “felonies” and many now carry prison sentences.

Contrast that with Europe and Japan. Japan implements its policies without resorting to legal coercion or overt enforcement. Japanese MUST negotiate and compromise to ensure compliance. Europe emphasizes mutual problem-solving rather than arm’s length enforcement and punishment.

Our legal system allows Third Party lawsuits. Europe and Asian countries do not.

In a 2003 study on the direct costs of the U.S. tort system, it was estimated that costs equal 2.2 percent of our nations GDP. Europe and Asian countries give no standing to Third Parties in environmental compliance and enforcement.

Perhaps, if we were a less litigious nation, we could accomplish more in environmental compliance, and be less fearful of international environmental treaties becoming law. However, for better or worse, when our nation commits to a particular environmental policy, we enforce that commitment with the heavy hammer of civil penalties and criminal prosecution. Europe, Japan, and other nations do not. Our global competitiveness and economic security is “in the balance.”
Many of us engaged in this issue believe it to be a serious and important issue. That I cannot deny. The Senator from Florida talked about it being of critical character. I do not dispute that. The question is, Can we do anything about it and what are we the cause of it? And I am speaking "we" as mankind. That is the essence of the debate today.

Also, S. 139, the Climate Stewardship Act, would portray, in part, that we are the cause and, therefore, let us make some adjustment changes in our regulatory structure in this country to begin to mitigate greenhouse gases.

Let me suggest that the word "modest" has been used, but I would guess if you read the legislation, and then you downstreamed it through the regulatory process, it might be anything less than modest.

Here is what is most important about regulating carbon dioxide. It is a gas. It is not under the Clean Air Act. It is not a poisonous gas or a toxic substance. It does not represent a direct threat to public health. That is what scientists tell us. Yet somehow we are going to be able to regulate and shape it in a way that completely what we believe to be the cause of producing greenhouse gas.

I suggest that probably the most invasive process we are going through right here with this legislation is the regulatory process that will ultimately come.

The Senator from Arizona and I, more often than not, are critics of big government and the regulatory process. What De Tocqueville said a good number of years ago—in fact, well over a century ago—was about the great democracy of America and the despotism of fear that is produced in the regulatory process that limits freedom.

He talks about the regulatory process and its despotism. I note that in 1936, there were about 2,600 pages of the Federal Register. In the year 2000, there were 74,258 pages of the Federal Register. We have become a phenomenally regulated and controlled economy and country. In so doing, de Tocqueville would note very clearly, as we all understand and as the Senator from Arizona understands as well as anyone, we begin to shape our freedoms, control our freedoms in a very interesting way. That is what this bill is all about, a massive new regulatory process to reshape certain utilizations of energy in a way that will have a significant impact on our economy. And we would be led to believe that somehow it is going to improve the environment in which we live.

That is the issue at hand. That is the one that we now need to discuss. That is, does scientific evidence support what S. 139 is all about.

I have spent a good deal of time on the science. You have to. That is probably the greatest frustration that all of us have, is trying to comprehend this massive body of science that is assembling out there and what it means and is it valid and from it, should we begin to reshape our economy; if it is invalid or inaccurate, what would be the impact of the reshaping that S. 139 might accomplish.

Oral hearings have been held all over. I organized one with the assistance of the National Academy of Sciences in June 2001. It was a high-level conference meeting here in our Nation's Capital. Every Senator was invited to come. Thirty showed up to listen. Senator Bingaman and Senator Sessions attended, along with Secretary O'Neill, to listen to the President and the President's Council of Economic Advisers, to listen to some of our noted scientists from all over the world. No one else came. O'Neill at that time was serving as Secretary of the Treasury and was a somewhat outspoken advocate of changing our economy for the sake of climate change. He went away from that meeting not confused but recognizing that there was a broad field of science out there that he had not yet explored and that scientists had not, in fact, come together in a way to understand.

We worked with a variety of scientists from the National Academy of Scientists. In 2000, I went up to Woods Hole Oceanographic Institute. Senator Chafee and Senator Bob Smith went along at that time. We listened to the best scientists, scientists who have studied this for decades. They cannot in any absolute way suggest that greenhouse gases are the creator of a heating trend or a warming trend that does exist and most agree does exist.

The Senator from Arizona, the authors of S. 139, would suggest that this is the definitive document, the "Analysis of Some Key Questions," of climate change science by the National Research Council. This is a total of 27 pages. I am not saying this document is wrong, but I am saying, to understand this document, you better read this document: "Pathways Study," 550 pages. Now, it is not a hot topic, and it will put you to sleep. It is all science. From this document, they concluded this document.

And what does this document conclude? That the science today is not yet assembled that can in any definitive way argue that these gases and man's presence in the production of those greenhouse gases is creating the heating trend in our global environment at this time.

There are not many sound bites here. The press did ignore this. Those who want the politics of this issue largely ignored this document. But they must go hand in hand. I am not a critic of this document at all. I have not read all of them, not all 550 pages. But I have thumbed through a lot of it. I have not read all of it. Anyone who wants to be the advocate of climate change darn well better read the bible on it first before they conclude that all of the world's scientists have come together with a single statement to suggest that the global warming we are experiencing can be in any way clearly the product of the production of greenhouse gas around this globe and all of it.

Because we have not totally understood it yet, there is no question that we ought to try to understand it before we begin to craft a massive body of regulation to reshape the economy, all in the name of climate change. That is what the President understood. That is why the President denounced Kyoto.

The administration's strategic scientific plan for climate change reduction is a valuable effort to build the body of science that can truly allow those of us as policymakers a foundation from which to make the right choices. If we fail to make the right choices, if we head this massive regulatory effort in the wrong direction with the wrong question—my question—spoken to it over the last few hours—we could badly damage, if not curtail, much of the growth in our economy.

I think the effort that is underway ought to be the pursuit of voluntary regulation. Voluntary action based on clear evidence is a much preferred way to go.

Let me talk for a moment about economic impact because that ultimately is the issue. S. 139 wants to change our country, wants to change the utilization of carbon and the emission of gases. You do it through a regulatory process. Between 1990 and the year 2000, industrial GDP increased 33 percent.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRAIG. The reality is, our industrial growth is climbing. Its emissions have rapidly dropped. The emission trend today of greenhouse-like gases, as we would argue, do not come from our industrial base. Yet this is where we send our regulatory effort.

I oppose the legislation. I hope the Senate will vote against it.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, I yield 6 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. Who?

Mr. LAUTENBERG. Mr. President, I thank Senators LIEBERMAN and MCCAIN for developing this amendment. It makes sense. Mr. President, I rise to speak in support of LIEBERMAN-McCain bill. This bill offers a reasonable, proven, market-based approach to addressing the problem of global warming. It establishes a greenhouse gas "cap and trade" system which is modeled on the most successful pollution reduction program ever—enacted the Acid Rain Program.

Since 1980, that program has reduced sulfur dioxide emissions by 40 percent—despite significant economic growth during that period. I say, it's about time.

A few years ago I traveled to Antarctica and I saw the effects of global
emissions. The Federal Government but we’re not waiting around.’’ A number of us were dismayed but not surprised by the report last month of the break-up of the Arctic’s largest ice shelf.

It is stunning that some of the world’s glaciologists have lost as much as 70 percent of their ice. Why is this melting? Because, as literally thousands of climate scientists have reported—the earth is heating up! Yes, global warming is real and America should be leading the international community in addressing it—not lagging behind. The scientific discoveries on climate change are nothing short of astonishing. Ice core samples from Greenland and the Antarctica show that atmospheric concentrations of carbon dioxide are at their highest level in 5 million years. In the Arctic, the permafrost is melting. The average thickness of the arctic ice shelf has decreased by a staggering 40 percent, just since 1960.

All that melting ice is steadily raising sea levels. Gradually, the sea has risen between 4 and 8 inches. This impact is particularly damaging to flat coastlines like in Texas where the relative sea level has already risen from 8 to 10 inches. From primitive thermometer readings to the analysis of tree rings and coral reefs, the evidence is clear: this last century has been the hottest in the last 1,000 years.

The evidence of profound climactic change continues to mount. A study published last January in Nature—probably the most respected scientific journal in the world—reported some remarkable discoveries. It reported that of 1,700 habitats studied, 370 are moving northward. The habitat of the Red Fox in Alaska, for example, has moved 100 miles toward the North. In the last 30 years. Frightening disease vectors, such as the mosquito which carries the deadly West Nile Virus, are pushing into North America.

Perhaps most ominous of all, night time temperatures are rising. Medical authorities tell us that this lack of relief from elevated temperatures at nighttime is a chief reason that 500 to 700 people died in Chicago during the 1995 heat wave.

When the Federal Government sits fiddling, States are not waiting for Rome to burn. At least 27 States—more than half—have started their own programs to reduce greenhouse gas emissions. According to David Danner, the energy adviser for the State of Washington, States are moving ahead to fill the vacuum left by the Federal Government. Danner said, ‘‘We hope to see the leadership addresses the federal level, but we’re not waiting around.’’ A number of those States have initiated reason; they are programs that soon begin to reduce greenhouse gas emissions. The Federal Government should be leading this effort, but isn’t.

At the very least, we should start catching up. Surely, none of us here doubt the United States possesses the capacity and the skill to confront global warming? I for one, do not.

Now is the time to harness America’s ingenuity and skills and tackle global climate change. There is a simple question: What is the matter with the facts of global warming that makes the administration duck for cover?

We cannot ‘‘spin’’ our way out of the impacts of global warming. But that is precisely the strategy of the opponents of this bill are pursuing. Look at this chart: Republican pollster Frank Luntz is urging his side to call it ‘‘climate change’’ not global warming, because ‘‘climate change’’ is ‘‘less frightening.’’ The implication here is that people won’t demand immediate action on something that is ‘‘less frightening’’ and ‘‘more controllable.’’ How irresponsible. No matter how much word-smithing that’s done, no matter how much faux science is thrown into the mix, the bill will not change the true, consensus, peer-reviewed science that has accumulated for 30 years.

The ominous impacts of Global Warming affect our health, affect our safety, and effect our economy. These impacts will not simply go away because we turn a blind eye to the facts and pretend the climate is not changing. In 2002, the National Research Council reported on the science of global warming. It said:

Greenhouse gases are accumulating in earth’s atmosphere as a result of human activities. National policy decisions made now and in the longer-term will influence the extent of the damage suffered by vulnerable human populations and ecosystems later in this century.

Clearly, the decisions we make here and now will determine how much ‘‘damage’’ is inflicted on our children and our grandchildren. The National Research Council represents the brain trust of the most educated country in the world. If we cannot believe the Council, who can we believe?

Global warming poses a clear and present danger to us all. The global warming bandwagon is getting full—and the President would be smart to get on it. A partial list of those who urge market-based action now includes: 2,500 eminent economists from MIT, Yale, Harvard, Stanford and other top universities, including eight Nobel Laureates who said, ‘‘a market-based policy could achieve its climatic objectives at minimum cost.’’

Major corporations, including the petroleum giant BP—which has already reduced its greenhouse gas emissions 10 percent below its 1990 levels—and saved $300 million in energy costs doing it.

Last night we heard from Senators who were repeating the scare propaganda that is circulating about higher fuel prices. But what is more reliable, guesswork by experts or the record of the past? If BP, DuPont and other major corporations can save money by reducing their greenhouse gases—surely they rest of the country can also. Other supporters of a market-based approach include Silicon Valley investors, multi-religion interfaith groups, the world’s largest re-insurance company, a bipartisan group of 155 mayors—the list goes on and on.

Let’s be the leaders we were elected to be. Let’s act now and vote for the Lieberman/McCain bill.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I yield 7 minutes to the best informed Senator who was the chairman of the Governor’s clean air committee.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I wish to comment on some of the statements made by my distinguished colleague, Senator LIEBERMAN, during the debate last night.

Senator LIEBERMAN was correct when he said concerns about climate change and atmospheric concentrations of carbon are widespread and bipartisan. He was also right when he said that support for increasing our scientific understanding of this issue and reducing atmospheric concentrations of carbon is widespread and bipartisan.

However, I note that opposition to the language offered by Senator LIEBERMAN and Senator MCCAIN is both widespread and bipartisan, including labor and management.

The bill is opposed by a large number of stakeholders, including the Chem- istry Council, the American Farm Bureau, the American Health Care Association, the American Highway Uses Alliance, the American Iron and Steel Institute, the National Association of Corn Growers, and the National Association of Wheat Growers, and the list goes on of the organizations opposed to this legislation.

The legislation is also opposed by a large number of labor unions, including the Brotherhood of Locomotive Enginee- ers; the International Brotherhood of Bollermakers; the Iron Ship Builders, Blacksmiths, Forgers, and Helpers; the International Brotherhood of Elec- trical Workers; the International Brotherhood of Teamsters; the Marine Engineers Beneficial Association; the United Food and Commercial Workers International Union; the United Mine Workers; and the Teamsters, the AFL-CIO; the Brotherhood of Railway, Airline, and Steamship Employees; the Firemen’s Fund, the Gulf Coast, and the rest of the country can also. Other supporters of a market-based approach include Silicon Valley investors, multi-religion interfaith groups, the world’s largest re-insurance company, a bipartisan group of 155 mayors—the list goes on and on.

Let’s be the leaders we were elected to be. Let’s act now and vote for the Lieberman/McCain bill.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I yield 7 minutes to the best informed Senator who was the chairman of the Governor’s clean air committee.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I wish to comment on some of the state-
heating prices on the poor and elderly. I also point out that the Department of Energy has stated that high energy costs consume a disproportionately large share of the income of the poor and elderly on fixed incomes. They are left out of this debate.

I would also like to address statements by Senator McCain and Senator Lieberman that because they offered a substitute to their original version of S. 139, all the comments and analyses cited by opponents of this bill, including mine, are irrelevant. These comments could not be further from the truth.

I refer to a letter I recently received from many of the stakeholders against S. 139:

The undersigned commercial, industrial, small business and agricultural organizations strongly urge you to oppose S. 139, the Climate Stewardship Act, or any substitute that may be offered by its supporters, Senators Joe Lieberman and John McCain, when this measure comes before the Senate. As they proclaimed, the vote on S. 139 (or its substitute) will be a test vote on the most appropriate response to concerns about our changing climate.

Among all the policy options available to the Congress to improve our understanding of climate systems, the arbitrary imposition of energy rationing as embodied in S. 139 is one of the worst possible options the Senate could choose for farmers, industry, the poorest of Americans, and the economy as a whole.

I ask unanimous consent that this letter be printed in the Record.

Therefore, by way of objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE, Washington, DC.

DEAR SENATOR: The undersigned commercial, industrial, small business and agricultural organizations strongly urge you to oppose S. 139, the Climate Stewardship Act, or any substitute that may be offered by its supporters, Senators Joe Lieberman and John McCain, when this measure comes before the Senate. As they proclaimed, the vote on S. 139 (or its substitute) will be a test vote on the most appropriate response to concerns about our changing climate.

Among all the policy options available to the Congress to improve our understanding of climate systems, the arbitrary imposition of energy rationing as embodied in S. 139 is one of the worst possible options the Senate could choose for farmers, industry, the poorest of Americans, and the economy as a whole. The Energy Information Administration projects that electricity prices would increase 46 percent and the price of gasoline would rise by 40 cents per gallon if S. 139 were adopted.

The sponsors of S. 139 have stated that the first phase of greenhouse gas reductions in their bill would “only require a 1½ percent reduction from today’s greenhouse gas levels.” However, the Energy Information Administration projects that emissions levels in 2010 would have to be reduced by 14 percent in order to achieve the 2000 emissions levels set in the Kyoto treaty of 1997. Moreover, S. 139’s first phase of reductions would require the economy to have to make additional cuts in fossil energy use every year, forcing many industries, such as the auto industry, to switch from coal to natural gas in order to meet the limits of the bill. The repercussions of a Senate vote to support S. 139 or its substitute cannot be understated. Any indication that the Senate favors coal-switching to natural gas will immediately influence many investment decisions that will affect, not just the future of natural gas prices for all consumers, but the very availability of natural gas for industry and electricity production. The substitute would contribute to the current natural gas supply/demand imbalance and almost immediately exacerbate the high natural gas prices and shortages that are already plaguing the economy.

On behalf of the men and women in large and small businesses in agriculture, commerce and industry who depend on reasonably priced energy for a prosperous future for this country, we urge you to oppose S. 139 and the sponsors’ substitute when this legislation is considered by the Senate.

Sincerely,

Alliance of Automobile Manufacturers
American Boiler Manufacturers Association
American Coke and Coal Chemicals Institute
American Farm Bureau Federation
American Iron and Steel Institute
Coalition for Affordable and Reliable Energy (CARE)
Council of Industrial Boiler Owners
Edison Electric Institute
IFC—The Association Connecting Electronics Industry
National Association of Manufacturers
National Corn Growers Association
National Electrical Manufacturers Association
National Mining Association
National Oilseed Processors Association
National Petrochemical & Refiners Association
Portland Cement Association
Small Business Survival Committee
Society of Glass and Ceramic Decorators
The Fertilizer Institute
The Industrial Energy Consumers of America
The Salt Institute
Toy Industry Association
U.S. Chamber of Commerce

Mr. VOINOVICH. Mr. President, this legislation is the first step in our country toward participating in the Kyoto protocol at a time when Russia and Australia have indicated they will not ratify the treaty, and when China, India, Brazil, and South Korea are exempt because they are “developing countries.”

Our trade deficit with China alone is $103 billion. Yet supporters of this legislation want to shut down American plants and send American jobs overseas to these “developing countries” that do not have the same environmental safeguards that we have in America. I can hear the giant sucking sound of jobs leaving our country every time I return to Ohio.

Let me be perfectly clear, carbon caps—lethal to our economy. Carbon caps—any carbon caps—will cause a switch to burning coal with clean coal technology. That will cause fuel switching to natural gas. It will mean the end of manufacturing jobs in my State. It will send thousands of American jobs overseas and will significantly drive up natural gas and electricity prices and put millions of Americans out of work.

Too many Americans have lost their jobs because we have not harmonized our energy and environmental policy in this country. We need a truly comprehensive energy policy that protects our environment while also protecting our energy security and our economy. We do not need legislation such as S. 139 that attempts to protect the environment while completely disregarding negative impacts on our energy security and economy.

As I stated last night, I strongly oppose any legislation that will exacerbate the loss of jobs in my State and drive up the cost of energy for the least of our brethren, the poor and the elderly. I urge my colleagues to vote no on this legislation.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I thank Senator Voight for making his statement. I will be specific. The amount of jobs in his State alone, if this passes, would be 178,000.

For any other Member who want to know how their States will be affected, we have that breakdown. It is a study by Penn State University. I thank the Senator for his comments.

Mr. LIEBERMAN. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.
Mr. BINGAMAN. I thank the Chair. Mr. President, I thank my colleague, Senator LIEBERMAN, for yielding me time.

Mr. President, I have heard three arguments against this legislation since I have had to hear this debate. The first argument is there is no such thing as climate change. Climate change is a reality if we are to believe the scientists we hire or who are willing to advise us.

A clear consensus of the scientific community is there is a change going on. The global climate is warming, and that is a fact.

The second argument I have heard is, OK, even if there is such a thing as climate change, there is no real proof human activity is the cause of that climate change. Again, I point out the scientific community believes it. The scientific community says human activity over the last 150 years has been a major contributor to the problem. Most of these human activities that contribute to this problem relate to energy production and use. Carbon dioxide emissions account for 84 percent of the annual emissions of greenhouse gases in the United States and 98 percent of those global emissions are associated with energy production or use.

The third argument which I have heard this morning is we do not totally understand this issue, and therefore, the Greenhouse Gas Act is not the legislation. If we use that standard, we will not legislate on virtually any subject in this body. Clearly, we have to take the best information we have, make the best judgments we can, and then we find we are in error, we can adjust our policies as we move forward.

As the ranking member of the Energy Committee, I have argued repeatedly for the last several years that part of our national energy policy and part of our energy legislation we were trying to craft should be a recognition of the importance of climate change, and we should include in a bill some provision for dealing with climate change issues. Unfortunately, I am informed the energy conference that is still in existence, although it does not meet, will not include any language related to climate change, even though the bill the Senate produced does contain some provisions in that regard.

This issue is one of global concern. It is sad that the United States is not leading this debate. We should have a leadership role, both because we have the capability to understand the science and to do the science, and the technology. We also have the capability to come up with an appropriate response. It is sad we are not doing that.

This administration has totally failed to lead with regard to this issue. The President’s plan to deal with the greenhouse gases has been little more than a business-as-usual approach. The President’s voluntary target of an 18 percent reduction in greenhouse gas intensity over the next decade sounds impressive until one looks at the data. The approach will allow climate-altering pollution to continue to climb as long as it increases more slowly than our economy grows.

The President’s commitments would meet a goal that are no more aggressive than business as usual. Greenhouse gas pollution intensity in the United States has been declining because of the part of our economy that is growing is the service sector, which produces fewer greenhouse gases than manufacturing for certain. President Bush’s voluntary approach will not change the trend in greenhouse gas emissions over what is likely to happen in the future, and it certainly does not put us on a path to reductions in the future.

We have been trying a voluntary approach to reducing greenhouse pollution. While negotiators at the U.N. Conference of Parties in 1997 in Kyoto, Japan, agree that the United States has the responsibility to reduce greenhouse gas emissions that would guide us or even inform these investment decisions. Addressing these issues up front would reduce business costs and risks. Maintaining our present course will increase the probability of future economic losses and waste in the energy sector.

This Climate Stewardship Act is a modest first step in trying to deal with this important issue. Senator LIEBERMAN and Senator MCCAIN deserve great credit for forcing this issue to be considered in the Senate today and to be voted on. They have put together an innovative framework that deserves our attention. Fortunately, that this bill was not able to receive the hearings in committee it deserves. The debate should be no longer about whether climate change is a reality, which is what we have been talking about on the Senate floor, but instead on how we can deal with it. Ideally, the debate we would be having on the Senate floor would be to consider amendments, to consider alternatives to this proposal, so we could come to grips with this very difficult issue. I would prefer to be offering amendments on ways in which the framework could be improved, but given the politicizing that has surrounded this scientific and environmental issue, I am left with only one option, and that is to vote for the bill and send a signal that the Senate must show leadership on climate change.

The PRESIDING OFFICER. The Senator’s time has expired.

Who yields time?

Mr. INHOFE. Mr. President, I yield 2½ minutes to the Senator from New Hampshire, Mr. SUNUNU. I hope we will look very carefully at the chart he has. It is probably the most significant chart, other than the jobs chart we have.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, we have heard a number of speakers who I think have raised a number of important points. We have heard questions and discussions about the science of climate change. They are important, and over time we hope to better understand the Earth’s climate. I hope this is an area where we do research, where we can develop better models. It is one of the most complex areas of investigation.

We have heard about the costs, both direct costs of this legislation that will increase energy costs for everyone in America, but also indirect costs, because other countries that have been mentioned by Senator VOYNOVICH, for example, such as China, India, Russia, or Australia, do not adopt such stringent controls on emissions, and they will benefit by American jobs moving overseas.

In particular, it stands to reason in those areas of our economy that are most dependent on energy as an import, energy incentive industries like manufacturing, steel, smelting, and the like, those are the jobs that will be the first to go overseas.

I want to speak about the environmental issue because if we look closely at the environmental impact of this legislation, it actually undermines the legislation. It shows its weakness and it illustrates why it should not be adopted. If we were to agree on the increase in temperature of the last 50 or 100 years, agree there was some relationship between manmade emissions of CO2 and that increase, and assume the full impact of the Climate Change Conference, the Kyoto protocol, let us look at what the environmental impact might be. This is a forecast of increasing temperatures over the next 50 years, a forecast projected increase of up to 1.2 degrees Celsius, maybe 2 degrees Fahrenheit. The benefits of Kyoto are enormously small, perhaps one or two-tenths of a degree Celsius. Over 100 years, if the projected change is 4 or 5 degrees Fahrenheit, the impact of Kyoto might be four or five-tenths of one degree.

The question is: what would that provide at the significant economic costs that are not likely but certain? Supporters have pointed out their legislation, but our legislation is not as dramatic as Kyoto. It is not as harsh as Kyoto, and that means the environmental benefit will be even less. Questionable environmental benefit, enormous cost. I certainly urge my colleagues to vote no.
The PRESIDING OFFICER. Twenty minutes 59 seconds on the minority side; 17 minutes 11 seconds on the majority side.

Mr. MCCAIN. Who is the minority side?

The PRESIDING OFFICER. Well, I do not know. That is a good question.

Mr. MCCAIN. How much time is controlled by Senator INHOFE and how much time is controlled by Senator LIEBERMAN?

The PRESIDING OFFICER. Senator LIEBERMAN has 20 minutes 59 seconds.

Mr. LIEBERMAN. Mr. President, I yield however much of the 10 minutes Senator MCCAIN will eventually have as he wishes to consume now.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I would like to use 8 minutes of my 10 minutes.

My favorite author is Ernest Hemingway, as he is of many millions of people throughout the world. One of his most famous short stories is entitled “The Snows Of Kilimanjaro.” At the beginning of the short story he says:

Kilimanjaro is a snow covered mountain 19,710 feet high, and is said to be the highest mountain in Africa. Its western summit is called by the Masai “Ngai Ngai,” the House of God. Close to the western summit there is the dried and frozen carcass of a leopard. No one has explained what the leopard was seeking at that attitude.

As the photograph shows here, the snows of Kilimanjaro may soon exist only in literature.

There has been a lot of debate here about the scientific evidence—17,000 scientists say this, 10,000 scientists say that, my scientist says this —although clearly the National Academy of Sciences and other organizations including the World Meteorological Organization, I think, and others, should have some weight with my colleagues. If I might quote the punch line from an old joke, “You can believe me or your lyin’ eyes.”

These are facts. These are facts that cannot be refuted by any scientist or any union or any special interest that is weighing in more heavily on this issue than any issue since we got into campaign finance reform.

That is the Arctic Sea. That is the Arctic Sea. If you look at the red line, that is the boundary of it in 1979. Look at it now. You can believe me or your lyin’ eyes.

Look at Mount Kilimanjaro. That picture was taken in 1993. That picture was taken in February of the year 2000. All of us cherish our national parks. Have a look at the Glacier National Park, which will have to have its name changed. The picture above was taken in 1932. That is a glacier ice cake. This picture is from the Glacier National Park archives. That is from 1932. Look at it 50 years later. It is not there. There will be no more glaciers in Glacier National Park. We may have to give it a different name.

Mr. President, I ask my colleagues not to listen so much to the opinions of labor unions, business special interests, or even scientists. Look at what is happening around the world. Use your eyes to see what is happening. The devastation wrought by climate change so far has been remarkable.

There is a long series of happenings around the world. Key reports have been issued in the last few years by a number of bodies composed of the world’s most eminent climate scientists, including the United Nations Intergovernmental Panel on Climate Change, the National Academy of Sciences, U.S. Global Change Research Program, and these experts all reached the same conclusions:

Mr. President, I have this debate while devastating fires, unprecedented in nature, are sweeping across California, fueled by unusual drought conditions. I don’t have to tell people what the consequences of that are. An ice dam lake drained recently when the Ward Hunt Ice Shelf, which a century ago rimmed the coast, 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. At a conference in Iceland in August, scientists told senior government officials the Arctic is heating up fast, disclosing disturbing figures from a massive study of polar climate change.

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, look at what is the Arctic.

Mr. President, I ask my colleagues not to listen so much to the opinions of any union or any special interest that is seeking at that attitude.

Finally, Dr. Adare of the Climate Research Group of the National Academy of Sciences, says:

The planet has a fever and it is time to take action.

Mr. President, I ask my colleagues not to listen so much to the opinions of labor unions, business special interests, or even scientists. Look at what is happening around the world. Use your eyes to see what is happening. The devastation wrought by climate change so far has been remarkable.

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The influence of intensifying drought on the spread of west Nile virus in the U.S., and the influence of increasing coastal damage suffering around the world. Use your eyes to see what is happening. The devastation wrought by climate change so far has been remarkable.

These big changes “are not related to (global) climate change.”

This was just in this morning’s paper, speaking of the Arctic Circle. Mr. President, when I have a chance to wind up, I want to repeat some of the things I said about the flawed science on which all these things are based. Until then, I recognize the Senator from West Virginia, Mr. BYRD, for a time not to exceed 12 minutes.

The PRESIDING OFFICER. The Senator from West Virginia.
Mr. BYRD. Mr. President, I come to the floor today to discuss the very critical issue of global warming and to summarize events of recent years that have led us to this point. We are discussing the paramount energy and environmental challenge of our time, namely, the inescapable increases in greenhouse gases in our atmosphere that will lead to changes in the global climate.

The primary contributor to global warming is fossil fuels that create carbon dioxide, and it remains in the atmosphere for over a century. These human-produced emissions are adding to a growing concentration in the global atmosphere that is expected to more than double by the end of this century. Therefore, we are bequeathing this problem and its consequences to our children, our grandchildren, and our great grandchildren.

While I am very concerned about the challenge posed by global warming, let me state at the outset that I have long been a strong critic of climate change policies that are not in the national interest of the United States. I will yield to no one on that point. I have insisted on a cost-effective, common-sense approach to dealing with climate change.

As the coauthor, along with Senator HAGEL, of S. Res. 98, that passed 95 to zero in 1997, during the 105th Congress, I sought at that time to express the sense of the Senate regarding the provisions of any future binding, international agreement that would be acceptable to the Senate. The Kyoto protocol, in its current form, does not comply with the requirements of S. Res. 98. That resolution was supported by many industrial trade associations and opposed by many environmental organizations.

While those on both sides of the issue have attributed many interpretations and misinterpretations to S. Res. 98, one has misrepresented and misconstrued S. Res. 98 more so than this present administration.

S. Res. 98 was intended to provide the sense of the Senate on what should be included in any future binding international treaty. The resolution laid out the conditions under which the Senate could agree to a new binding treaty that would subsequently be considered at the Kyoto conference. S. Res. 98 stated that any such treaty must include new scheduled commitments for the developing world in addition to any such requirements for industrialized nations but requirements that would be binding and mandatory and lead to real reductions in the emissions of greenhouse gases over time. This is clearly different than the minimal, vague, and voluntary commitments that we are currently pursuing.

As I explained in 1997, a voluntary approach had already failed. The United Nations Framework Convention on Climate Change, also known as the Rio Convention, failed to reduce emissions largely because it was voluntary. That is why Kyoto concerned binding commitments, and S. Res. 98 was intended to guide that effort rather than kill that effort.

The administration’s climate team has followed an approach of RIO, despite a complete lack of evidence that this so-called plan will ever succeed. Industrial nations have never initiated significant reductions in pollution of any type on a voluntary basis, and if the administration must finally come to terms with taking action toward globally binding commitments.

As well, developing nations, especially the largest emitters, need to be a part of any binding global climate change treaty. Another point that has been misunderstood is what S. Res. 98 would require of developing countries. An international treaty with binding commitments can and should provide for the continued growth of the world’s developing economies. Stringent emissions targets need not choke off their economic growth. The initial commitments could be relatively modest, pacing upwards depending on various factors, with a specific target for 2050.

The world is even further away from a credible, workable global strategy to deal on climate change than we were in 1997.

The blame for this circumstance can be laid directly at the feet of this administration which abandoned international negotiations in which it could have kept pressure on developing nations to agree to some level of mandatory emissions reductions. Moreover, developing nations should be a prime market for clean energy technology projects. But, with little pressure on those nations to reduce or contain the growth of emissions, a huge and fruitful market for those types of technologies—technologies that are being developed in the U.S.—is likely to dry up.

In other words, while this nation has been making great strides in developing technologies to use our own energy resources more efficiently and more cleanly, significant efforts to help deploy these technologies overseas have been undercut by this administration’s unilateral approach to climate change.

Thus, S. Res. 98 was an effort to strengthen our negotiating position in any agreement that eventually came to fruition. The administration’s unilateral approach to the Kyoto protocol has undermined the credibility of the U.S. in the global negotiations.

The Bush administration has never understood the value of S. Res. 98. Rather than employing that tool to positively influence international negotiations, it used the resolution as cover to simply walk away from the table. Having abandoned a constructive role in the global negotiations on climate change, this administration has left the U.S. in a much weaker position globally.

The Bush administration must be challenged on its environmental, economic, and energy responsibilities, and this administration will be held accountable.

The U.S. is in the best position of any nation to positively influence an international response to global climate change. Yet, we will all suffer from the consequences of global warming in the long run because we are all in the same global boat.

This administration has attempted to hide behind S. Res. 98 to defend its current do-nothing and know-nothing policies on climate change and I strongly object to that. The difference between my view and that of this administration is simple. I believe the problem is real and demands action.

The administration does not. The administration can also claim that its goal was to oppose Kyoto. If the President’s representatives had stayed at the table and negotiated in good faith on a treaty to comply with S. Res. 98, then the administration could have taken the world toward a new binding treaty with mandatory requirements to reduce emissions that would correct the deficiencies of Kyoto.

The reality is quite different. Our nation has been represented at the international negotiations in name only. We would be better represented at the international negotiations by a row of empty chairs. That would at least accurately represent the nature of our current policies. For President Bush not only disavowed the Kyoto Protocol; he also turned his back on any negotiations because they concern a binding treaty that includes mandatory emissions cuts—a treaty that the rest of the world was outraged by this unilateral rejection of a decade of negotiations and of the new American isolationist approach to deal with climate change.

And what will happen in one year or five years when a new administration enters office? What will happen if Russia decides to ratify the Kyoto Protocol, and it enters into force? Will the administration be able to go back to the table and demand changes to binding international law that will have been in force for perhaps many years? The President’s industry supporters may one day wake up and realize that they live in a partially Kyoto-controlled world where there is no turning back.

One senses confusion and a lack of direction in the administration. It seems that the administration’s right hand does not know what the far right hand is saying when it talks about climate change policies. The White House does not know whether to believe the science or not, and they have certainly not articulated a plan of action.

Finally, I am compelled to observe that it is the height of hypocrisy for this administration or its supporters in industry to claim that they are defending the goals and provisions of S. Res.
They cannot make such a claim in the debate today or in any international forum. Nothing could be further from the truth. This administration can no longer hide behind the mantle of that resolution.

It is this administration that undermined the tenets of that resolution. They now support only vague, voluntary measures. That is true both domestically and internationally. The evidence suggests that the President's negotiators have even formed an alliance with the key emitters in the developing world, and together they oppose any additional discussion during the international negotiations of binding commitments for the developing world as called for under S. Res. 98. That is of course a logical result of the administration's policies, since it is impossible to apply binding commitments to China if we refuse to apply such standards to ourselves. We now have little hope of seeing an effort made to produce a treaty that will comply with S. Res. 98—at least not during the tenure of this President.

If there is no prospect for a binding international treaty, then how can we deal with the enormous challenge posed by global warming? The critics of the amendment before us argue that we should stay the course and support the President's policies. If I may ask—what are those policies? What concrete programs have been put in place? In point of fact, the administration has asked the industry trade associations to develop their own voluntary reduction programs. The proposals are vague and actually allow emissions to continue to increase. Taken together, none of these programs is expected to result in any serious decrease in emissions.

These events over the last three years have led me to conclude that we must look elsewhere for effective action on global warming. The Senate should be considering a bill in the position in which it now stands. It should not be faced, as we are now, with the prospect of considering an energy bill devoid of provisions to address climate change. The Senate should be considering our nation's energy security from a broad view that includes a global response to climate change and the international politics of energy.

Proponents of the amendment now before us argue that it sends the clear message to the world: The President Bush rejects the advice of this body, then he is refusing to negotiate in good faith toward a binding international treaty and is only offering hollow domestic programs. The Senate has little choice but to consider further steps, including modest, market-oriented approaches, that would apply to our domestic economy.

The amended version of S. 139 freezes emissions at their current levels rather than seeking a sharp reduction as has been the experience in the United States. The McCain-Lieberman bill also allows companies to offset their emissions, for example by planting trees that absorb and sequester carbon dioxide (CO$_2$) or by constructing more efficient power plants in the developing world than what those nations would otherwise build—and claim the difference as an earned offset or credit.

I would also have to be faced with a measure like this today. I note that this bill has not had committee consideration. That said, it is very much the case that several key chairmen with jurisdiction over energy or environmental policy have expressed very little interest in seriously dealing with climate change. We have certainly witnessed this in the energy bill. I want to further commend Senators McCAIN and LIEBERMAN for their diligence and hard work to find a middle ground. They have come a long way on this proposal. If the principles of their proposal were combined with those of other Members like mine, then the Senate could have a strong package to offer the American people. While I will not be able to vote for the bill for that reason, I want to make it very clear that I will work with the sponsors of this bill and other Republican and Democratic Senators who want to go beyond this administration's empty-headed approach.

In closing, I express my own growing frustration for our seeming inability to deal with the problem at hand. I have been troubled by this for a long time. I do not believe I need any more scientific evidence to show that fact. We have seen the changes in weather patterns, and those changes that I have personally seen during my nearly 86 years lead me to believe that there is something happening. We need to do something about it. What we do may be painful in some respects, but we owe it to our children and grandchildren to have the foresight to see that something is happening and to understand that we ought to do something about it soon. If not, we may be going beyond retrieval.

So, I will yield the balance of my time to the two Senators are to be very much complimented. I will vote with Mr. INHOFE, for the reasons I have stated. I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank Senator BYRD for his statement. Obviously, I regret that he is not going to support the McCain-Lieberman proposal. It is a very much this fact: He recognizes that there is a problem here. I don't know how some of our distinguished colleagues can say there is not a problem. The science is there. The facts are there. We see it with our own eyes. We can disagree on what to do about the problem.

But Senator BYRD, with his characteristic directness and honesty and sense of history, has recognized that there is a problem. I look forward to continuing to discuss with him, with other Senators, and also to see that we can fashion together a common ground response that will deal with the problem that he quite honestly has recognized. I thank the Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I thank our colleagues for the work they have done. I, again, thank Senator INHOFE.

Mr. LIEBERMAN. Mr. President, I yield 5 minutes to the Senator from Delaware who has been an active, helpful, and constructive supporter of this proposal, for which I thank him.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank Senator LIEBERMAN and Senator MCCAIN and others who brought this legislation to the floor. I stand today as a cosponsor of the amended version of the McCain-Lieberman Climate Stewardship Act and I will vote for it today. I do so because I believe it is a sensible first step toward addressing the real problem of increasing levels of greenhouse gases.

Mr. BYRD. Mr. President, I thank Senator LIEBERMAN and Senator McCAIN, and others have spoken about the conviction and science which shows not only greenhouse gas emissions are increasing but also that those emissions are linked to human activity and are having a negative impact on the climate in which we live.

Ten years ago I would not have stood here. Ten years ago I would not have been arguing that we should take mandatory steps toward addressing greenhouse gas emissions. But over the past decade or so as I learned more about this issue and had the opportunity to speak with people on both sides of this debate, and as Senator MCCAIN said, to see with my own eyes the changes that are occurring in this world, I have become convinced there is a real problem.

Ten years ago I would not have been arguing that we should act in a meaningful way, that we should act in a matter that will yield 5 minutes to the Senator from Delaware who has been an active, helpful, and constructive supporter of this proposal, for which I thank him.

Mr. CARPER. Mr. President, I thank Senator LIEBERMAN and Senator MCCAIN should be commended for their willingness to make a significant modification to their original proposal. I don't know that I would have been so supportive of the original bill because of reductions that were required in that bill. Having said that, the modified version before the Senate today which seeks to turn over the balance of this decade greenhouse emissions to levels of the year 2000 has my strong support. The fact is, if the Federal Government does not act this way, and do so soon, the problem will get worse and the solution, when it comes, will be even more difficult and more disruptive of our economy and our way of living.

Reducing greenhouse gasses is a proper role for the Federal Government. In yesterday's New York Times, a reporter, Jennifer Lee, wrote about the increasing number of States fed up with a lack of certainty from the Federal Government's climate change policy. Half the States, according to the article, have taken steps to address global warming.
On the one hand, I view the States’ efforts as a positive development. However, regulating greenhouse gasses via 50 different laws is not, my friends, the best way to proceed on this issue. It is best for both the industries that will have to comply with these laws and the ecological health we expect from the passage that we adopt a uniform Federal standard. The Climate Stewardship Act does just that.

My own State of Delaware is proud to be the home of the DuPont Company, a global company with products touching each of us every day. DuPont is a major producer of greenhouse gasses. One might think they would be opposed to this legislation, but as it turns out they are not. They view this bill as a significant and serious contribution to the congressional debate on how to address climate change.

They think it is particularly noteworthy for three reasons, and I will mention those: No. 1, the measure includes very strong incentives to achieve reductions efficiently; No. 2, it covers more than one sector of the economy; No. 3, it provides credit incentives for early action and includes flexibility mechanisms to allow companies to choose the cost solutions that achieve the desired results.

DuPont is just one example of a company that has stepped forward and taken steps to reduce greenhouse gas emissions not because they have to but because they believe it is the right thing to do.

DuPont kept its energy use flat between 1990 and 2000, while at the same time increasing production by 35 percent. That means they found ways to become more efficient and thereby avoid increasing greenhouse gas emissions. If a company such as DuPont can find a way to meet the requirements of this bill, I suspect that just about any company can do the same.

Today’s vote is one of the more important votes we will take during our time in the Senate, certainly one of the more important votes of this year. In my mind, the issue it addresses is as important as the vote to authorize the President to use force in Iraq or whether we will make major changes in Medicare prescription drugs.

What we decide today will have a significant impact for our future. While we will not see noticeable, positive or negative, effects before next year’s Presidential election, or before next year’s Senate elections, within our lifetime, as sure as we are gathered here today, it will be clear that we have made the right choice or, I might add, if we have made the wrong one.

I urge my colleagues to join me in what I believe is the right choice and that is a “yes” vote for the Climate Stewardship Act.

Mr. HARKIN. Mr. President, I would like to take a few moments to discuss S. 139, the Climate Stewardship Act and lay out the reasons I am supporting this bill.

The chief reason I support this bill is that I believe, as do the majority of scientists, that global climate change is occurring, and is due in part to human activities. I also believe that the U.S. has a responsibility to provide international leadership on this issue, and to begin to take action. This body, the U.S. Senate, has now passed three separate Sense of Congress Resolutions, this year and last year, urging U.S. leadership and reengagement in the international effort to address global warming, and making it clear that taking action will harm the U.S. economy, and will impact energy supplies. While their concerns are legitimate, they are misplaced, because scientists, economists and analysts in this administration and in the private sector agree that the bill that we are debating will not be onerous for the overall economy or for the various industries it impacts. The Energy Information Agency in the Department of Energy and the Massachusetts Institute of Technology, in separate assessments of this bill, indicate it will have minimal impacts on fuel prices and will even lower fuel prices in the case of natural gas, for instance, by generating efficiencies and providing market signals that drive efficiency. Furthermore, the bill has specific provisions to encourage clean, renewable fuel production from the agricultural sector and other sectors, which would not only reduce our reliance on imports of oil, but also benefit our agricultural economy and the environment by reducing greenhouse gas emissions. I support those provisions.

Some critics have said that this bill would prevent the burning of coal, and I think it would also benefit the agricultural sector and rural areas will continue to bear the brunt of severe weather events that can devastate farmers and rural economies as long as our inaction continues. However, U.S. agriculture can also make important, cost-effective contributions to offset a portion of U.S. emissions of greenhouse gasses in the near- and medium-term. With the proper incentives, agriculture can provide a low-cost bridge to a low-fossil-fuel and greenhouse gas-emissions future by improving the sustainability and perhaps the profitability of this vital economic sector. The Climate Stewardship Act,
provides some of these incentives. A provision in the bill that I particularly support is financial incentives, through the auctioning of permits to capped sectors, to agricultural practices to reduce greenhouse gas emissions, including carbon sequestration and energy sources, such as wind power.

Agriculture can play an important role in mitigating global warming, and can provide valuable benefits to society. Vermont, a state already being traded and sold in this country and others, and farmers can not only "farm" for carbon, they can reap the rewards under this bill, and help keep costs of action down.

To make sure farmers can take advantage of this opportunity, I have negotiated with Senators MCCAIN and LIEBERMAN to guarantee that a specific portion of the credits that can be sold into this cap-and-trade system in the bill will be set aside for soil carbon sequestration. Soil carbon sequestration reduces U.S. net emissions of greenhouse gases but also improves air and water quality by reducing run-off, and improves soil moisture retention. Soil carbon sequestration occurs through improved management practices such as no-till or reduced-till farming, the use of shelterbelts, grass waterways, wetland restoration, and improved irrigation systems, to name but a few. But most importantly for the farm sector, soil carbon enhances agricultural sustainability and profitability. We know this because agricultural and soil scientists have studied this issue for years—not because of global warming, but because of the associated environmental improvements and the improved crop productivity associated with greater soil carbon. These are complementary objectives with nice overlap. As a key benefit soil carbon sequestration also reduces the potential for greenhouse gas emissions by fully 10 percent of U.S. annual carbon emissions.

To help ensure that farmers and others in the agricultural sector thoroughly understand the issues of global change, and that they can benefit from an emerging carbon market, we have negotiated additional language to institute an education and outreach initiative within USDA. The program would provide detailed information as well as technical assistance to these individuals and groups, as well as allow for the creation or utilization of existing centers on climate change.

This is a win-win policy for agricultural citizens, and of course for our environment. That is why I support this bill.

Mr. LEAHY. I rise today in support of S. 139, the Climate Stewardship Act. I am pleased that the Senate Committee is finally going to have an open and honest discussion about climate change, greenhouse emissions, global warming and its effects on the Nation and the world. It is clear that it is time for the Senate to act and pass this important legislation.

Climate change and global warming could cause grave problems to our Nation's economy, especially the economy of the Northeast. The economy of my home State of Vermont relies heavily on the revenue brought in from the maple, forest and ski industries. Maple syrup production is a major source of income, and Vermonters could be faced with a dramatic loss of maple production in Vermont and the rest of the Northeast if fuel emissions continue to go unchecked.

There are about 3,000 maple farms in my home State, and most of them are family-owned businesses. Many if not all of these farms could suffer from a decrease in maple sugar income, and eventually they could lose their farms altogether. I have heard from many maple producers from my State who say they are tapping trees earlier every year. It used to be that Vermonters were tapping their trees around Town Meeting Day, the first Tuesday in March. Now, some are forced to tap a month earlier, during the first week in February. A report done by U.S. Office of Science and Technology Policy, sugar maple could eventually recede from all U.S. regions but the northern tip of Maine by 2100. This is unacceptable, but it is also preventable, and that is why I would like to pass the Climate Stewardship Act of 2003.

One maple syrup producer from Vermont has become so concerned about the negative effects of global warming that he has joined a lawsuit against the Export Import Bank and the Overseas Private Investment Corporation. The plaintiffs in this case claim that these companies have illegally provided more than $32 billion for overseas oil fields, pipelines, and coal-fired power plants over the past 10 years without assessing their impact on global warming as required by law. The plaintiffs are not seeking financial compensation, only compliance with the National Environmental Policy Act, which requires all Federal agencies to assess their programs' contributions to global warming.

Vermont also relies on revenue from the ski industry. Vermonters and others from all over the country enjoy the ski resorts in Vermont. There is a strong relationship between winter skiing conditions, the number of customers, and whether a ski resort has a successful or unsuccessful ski season. Vermonters have already had to make improvements to snowmaking technology to ensure there is enough snow for the entire ski season. This can cost resorts hundreds of thousands of dollars. Warmer weather also means the resorts open later. In 2001, Killington Ski Resort, the largest ski resort in Vermont recorded its latest opening date in more than 15 years. Many ski resorts across the country are doing their part to slow global warming. Four ski resorts in Vermont: Haystack Mountain, Stratton Mountain, Pico Resorts, Mad River Glen, and Mount Snow Resort have all adopted a policy on climate change to address the problem of global warming. Mount Snow Resort has cut energy consumption in half at the Main Base Lodge and Snow Lake Lodge by replacing hundreds of conventional light bulbs with compact fluorescents. They have also replaced older, less efficient snowmaking tower guns, which reduce the energy needed to pump water and compressed air. I commend the efforts of these ski lodges and I believe that we should act today and do our part to reverse global warming.

I have two grandchildren a 5-year-old grandson and a granddaughter who is not quite a year old. I want them to be able to enjoy Vermont as I have: snow-covered Green Mountains in the winter, beautiful foliage in the fall, and Vermont maple syrup on pancakes as often as they please. It is time the U.S. took action to curb our greenhouse gas emissions. We can no longer look the other way as the rest of the world moves ahead while our Administration ignores global warming.

Mr. JEFFORDS. Mr. President, I stand to applaud the efforts of Senators LIEBERMAN and MCCAIN for pushing forward with a sensible and modest plan to address the threat of global warming.

I would prefer that we were debating a bill reported by the Environment and Public Works Committee, but the chairman of the committee has made it clear that he will never act on such legislation. That is unfortunate, since the evidence presented to our committee of jurisdiction is more than sufficient to justify taking prudent action to reduce greenhouse gas emissions.

There are those who say that climate change is a hoax, a concoction of radical environmentalists and a liberal media. That is simply hogwash or maybe the whitehouse effect. Global warming has been documented by hundreds and hundreds of credible scientific studies, including many world class institutions such as the National Academy of Sciences, the American Geophysical Union, and the International Panel on Climate Change. To ignore and dismiss the threat of climate change to the economy and the environment is like insisting the earth is flat. It flies in the face of reality.

The Climate Stewardship Act uses the same type of efficient cap-and-trade system that Congress established in the 1990 Clean Air Act amendments to reduce sulfur dioxide emissions and acid rain.

My bill, S.366, the Clean Power Act, uses that system to reduce carbon dioxide pollution from power plants to 1990 levels. That carbon cap and the cap-and-trade bill before the Senate would stimulate the development of domestic technologies, like gasification and renewables. That would allow our Nation to continue burning coal, but more efficiently, cleanly and safely and with fewer carbon emissions.

Without some kind of carbon cap to drive technology, utilities and investors will continue turning away from
coal and toward natural gas. Without clear action by Congress on this matter, utilities and investors fear the uncertain timing of the inevitable carbon controls that are coming.

I will not go into great detail about the need to act now. The budget hearing record is replete with peer-reviewed scientific evidence that demonstrates that need and refutes the Senator from Oklahoma’s statements.

But, I would like to note that the average global temperature in September 2003 was the hottest on record, and 1998 and 2002 were the first and second hottest years on record. That should concern us all.

It is urgent that we take action soon. The Senate’s decision today will affect the atmosphere and climate for the next 100 years if not longer. Experts have advised us that we and the world must radically change the use of fossil fuels in the next 10 to 15 years or the consequences could be quite severe.

The Senate to pass this bill is tremendous. The United States emits approximately 25 percent of the world’s carbon pollution. We are responsible for approximately 40 percent of the carbon concentrations now in the atmosphere. We have a moral and an economic opportunity in leading the development of technologies and systems that will reduce greenhouse gas emissions.

This legislation gives businesses and Government a great opportunity to promote solar, wind, fuel cells and other sustainable energy sources as “the next high tech revolution” to meet our growing energy needs. It can also stimulate rural communities by making carbon sequestration economically attractive.

Twice now, in the energy bills, the Senate has passed resolutions asking the President to enter into negotiations with all nations to obtain a binding treaty to reduce greenhouse gas emissions. We have been ignored. The administration has taken no action to accomplish such a treaty or adopted any policy that will result in real and tangible reductions.

Senators should not take this vote lightly. This is the first time that the Senate will vote to control emissions that cause global warming. Senators can lead now and contribute to sustainable development and job creation or they can close their heads in the sand and be blamed further for the climate change that is already occurring and for the chaos that warming is likely to bring.

I urge Senators to support the Lieberman-McCain bill.

Mr. FEINGOLD. Mr. President, I will be supporting the McCain-Lieberman climate change legislation, and I want to detail the reasons for my support. At the 1992 Earth Summit in Rio de Janeiro, the United States agreed to a goal of reducing emissions to 1990 levels by the year 2000, and we became a party to the Framework Convention on Climate Change. As a Member of the Senate, I have supported this agreement. In order to meet this commitment, our Government has engaged in a wide range of voluntary programs. But, despite these efforts, U.S. greenhouse gas emissions have increased by 14 percent since 1990. We should take additional nationwide steps to meet this goal, and I believe this legislation is an appropriate first step.

In this legislation, my colleague from Connecticut, Senator LIEBERMAN, and my colleague from Arizona, Senator MCCAIN, would implement Phase I only of their broader bill on greenhouse gases, S. 139, the Climate Stewardship Act of 2003. This legislation will return the Nation’s emissions to 2000 levels by 2010. It will do so by reducing emissions in the short term while providing market-based flexibility to minimize the cost to industry.

I continue to believe that we must take action at the national level now to slow the progression of climatic change. The costs of inaction are prohibitive across the country and in my home State of Wisconsin. Wisconsin’s top officials acknowledged that climate change was a concern years ago. In testimony before the Senate’s Committee on Environment and Public Works, the State government’s Energy Division in the administration of Governor Thompson, stated back in September of 1997, “There was a time when the possible human influence on the atmosphere was hotly debated by scientists and lay persons alike. That time is past.” In response, my home State has become one of the first with a statewide plan to address global warming.

Numerous signs suggest that the climate in Wisconsin may already be changing, and that the actions that the State of Wisconsin has taken are justified. UW-Madison scientist John Magnuson led a dozen other scientists in examining actual climate data recorded by scientists and lay persons alike. That time is past.” In response, my home State has become one of the first with a statewide plan to address global warming.

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of these agreements was imperfect, each became more so when the United States moved to the sidelines. Helping to shape credible international institutions is not a sign of weakness; it is a sign of confidence in U.S. strength and ideals. By disengaging, this administration has discredited U.S. policies, interests, and values.

For these reasons, I support the McCain-Lieberman legislation. The U.S. should proceed to implement the Framework Convention on Climate Change, and we need legislation to do just that.

Mr. KOHL. Mr. President, today the Senate took an important step toward expanding the debate on global warming. Greenhouse gases and global warming are a real threat to our environment and our way of life. The National Academy of Sciences has verified the scientific evidence backing global warming. And the private sector is facing the real world impact of global warming as they contemplate their insurance costs of rising sea levels and more destructive storms. A decade ago, debate ranged within and without the ivory towers of academia over the hazy science backing claims of global warming. And has changed, and we can see the impact that burning fossil fuels has had on the climate.

The changes to our environment are real. Our job now is to decide what to do about it. The approach set out by this bill, the McCain-Lieberman bill, is a reasonable first step. It is not perfect, and if we would have been able to take up and debate amendments there are several, significant changes I would have supported.

My biggest concern is that this bill would have us move toward reducing emissions without requiring the rest of the world to join us. While we have a responsibility to reduce our own emissions, we need to work with the international community. China, for example, is approaching the United States as a producer of greenhouse gases and must be a part of any practical effort to reverse global warming. If our unilateral efforts convince China they have no need to act, than our approach could do more harm than good. I vote for this bill today as a message to the administration that it is time to redouble efforts to spark a world effort to address global warming. I do not vote to commit the United States as the sole party to act.

I strongly support including environmental standards as part of our trade agreements. Clean air and water issues should be discussed with our international trade partners during trade negotiations. I believe the McCain-Lieberman bill is an important step forward. I strongly support including environmental standards as part of our trade agreements. Clean air and water issues should be discussed with our international trade partners during trade negotiations. I believe the McCain-Lieberman bill is an important step forward.

The resulting changes in the amount and timing of runoff are very likely to have significant implications for water management, flood protection, power production, water quality, and the availability of water resources for irrigation, hydro power, communities, industry, and the sustainability of natural habitats and species.

Reduced snow-pack is very likely to alter the timing and amount of water supplies, potentially exacerbating water shortages, particularly through the western United States.

I strongly support including environmental standards as part of our trade agreements. Clean air and water issues should be discussed with our international trade partners during trade negotiations. I believe the McCain-Lieberman bill is an important step forward.

I pray that the Senate will seize the historic opportunity before it today and vote to begin seriously dealing with this worldwide threat.

Unfortunately, I am afraid Congress is not very good at passing laws that will only benefit future generations, especially when there might be a cost—no matter how small—for our constitu-

tents today. But I hope that this vote will be different and that my colleagues will join me in passing this sensible legislation to prevent a costly, and potentially catastrophic, rise in global temperatures.

As Senators JOHN MCCAIN, JOE LIEBERMAN, and others have already articulated, the scientific conclusion that greenhouse gas emissions are contributing to an accelerated rate of climate warming is beyond debate. Those of us who have served as members of Congress have witnessed the changing climate firsthand and have observed the trends first hand and have observed the trends. By the time this bill was introduced, the scientific community has already acknowledged the reality that human activities cause climate change and has warned us that the effects of climate change are beyond argument.

Senator McCain and I introduced the Climate Stewardship Act. I hope the Senate will seize the historic opportunity before it today and vote to begin seriously dealing with this worldwide threat.

Even the Bush administration, whose sincerity in dealing with this issue is suspect, acknowledges the reality that human activities cause climate change. Last year, in its United States Climate Report for 2002, the administration outlined a vast array of consequences climate change would inflict across our country. I would like to highlight some of the significant implications for water management, flood protection, power production, water quality, and the availability of water resources for irrigation, hydro power, communities, industry, and the sustainability of natural habitats and species. Reduced snow-pack is very likely to alter the timing and amount of water supplies, potentially exacerbating water shortages, particularly through the western United States. Increased temperatures in the current rate of sea level rise is very likely to exacerbate the nationwide loss of existing coastal wetlands.

Habitats of alpine and sub-alpine spruce-fir in the contiguous United States are likely to be reduced and possibly in the long-term, eliminated as their mountain habitats warm. Average temperatures in the current rate of sea level rise is very likely to exacerbate the nationwide loss of existing coastal wetlands.

These conditions would also increase stresses on sea grasses, fish, shellfish, and other organisms living in lakes, streams, and oceans.

The non-profit group Environmental Defense compiled research that shows that the winter snow pack in the Cascades could decline by 50 percent within 50 years. A reduction even a fraction of that size would have a devastating impact on runoff that is vital for hydropower, agriculture, salmon habitat, and drinking water. I am sure many of my Western colleagues would be similarly alarmed by potential reductions in their scarce water resources.

Just the damages from decreased runoffs would cost my State billions of dollars annually, dwarfing even the most pessimistic costs that some opponents contend may result from this bill. But besides the costs this legislation can help avoid, I think it is critical that we consider the tremendous benefits this bill would initiate.

Today, I know that the tired mantra that "protecting the environment costs jobs" is no longer true. In fact, the market-based mechanisms encoded in this bill would catalyze countless new environmental technology industries. That translates into many new high paying engineering and manufacturing jobs and tremendous new export opportunities.

A recent report by the U.S. Department of Energy, which included contributions from Washington State's Pacific Northwest National Laboratory, forecast significant job growth for jobs in the range of emerging industries, such as wind power, biomass energy production, and other energy efficiency specialties.

I am proud that my State hosts one of the largest wind farms in the United States. I visited our Stateline project and saw firsthand one of the many solutions that the market will find to meet the goals of this legislation.

These conclusions were confirmed by a 2001 study carried out in collaboration with public and private partners in the Pacific Northwest that found that the global market for clean energy technologies is expected to reach $180 billion a year—about twice the size.
of the passenger and cargo aircraft industries—within the next two decades. Already, in Washington, Oregon, and British Columbia this sector is a $1.4 billion per year industry.

Despite the potential of these new marauders, some of my colleagues have argued that the costs of addressing this problem are too high, because they believe this bill might raise energy costs. While that is highly disputable, I am curious of this measure as well support lifting controls on other pollutants? I’m sure we could make coal-generated electricity even cheaper if we did not require pollution scrubbers. We could allow millions of tons of sulfur dioxide, mercury, and other toxics to flood our nation’s air in the name of cheap energy. But of course we wouldn’t do that because we know that true costs of such a policy—whether it be the health of our children, the effects on our children—it is indisputable, there may be another important way to view this issue: as an insurance policy.

As I have listened to this historic debate, I have been frustrated by the dueling charts and reports which have been used to support one position or another. While I, along with many of our Nation’s Governors and world leaders, believe that the scientific evidence is indisputable, there may be another important view to consider this issue: as an insurance policy.

I am confident that even the most vocal opponents of this bill would be reluctant to say that there is absolutely no chance that the vast majority of scientists are about this issue and that greenhouse gas emissions are causing global warming. Perhaps the climate skeptics would change their position if they realized that this legislation is really an insurance policy for our children, one that guarantees they will be able to enjoy the same natural world that benefits us today.

I believe that is how the American people must intuitively understand this issue. This is borne out by a recent nationwide survey that showed that three-quarters of Americans support the McCain-Lieberman climate change bill and two-thirds agree that we can control greenhouse gases without harming our economy.

We are a problem-solving nation. When we are faced with a grave threat, we roll up our sleeves, put our heads together, and fix our problems; we don’t push them off on our children and future generations. Like the threat of terrorism, climate change is too alarming and disturbing a problem to ignore.

The risks of ignoring this problem heavily outweigh the benefits of preserving the status quo. Allowing rapid changes in the temperature of the earth’s surface and shifts in worldwide weather patterns that result from global warming would be devastating to the economies of our nation, and the world. Let’s make sure this problem gets the serious action it deserves. I urge my colleagues to support this critical bill.

Mr. BUNNING. Mr. President, I rise in opposition to this legislation, S. 139. We have disputed over the scientific evidence on global climate change. And we can debate that science all day and never agree.

I believe the science we have seen does not support the need to engage in questionable policies to control so-called “global warming”.

We need more evidence that the climate is actually affected by emissions, especially carbon emissions, before we act too quickly.

Let’s make sure we really look before we leap.

Instead of arguing over scientific data, we should examine the impact S. 139 could have on American jobs and our economy. This bill limits emissions of greenhouse gases to 2000 levels by 2010. This includes regulation of carbon dioxide emissions.

I am proud to be from a coal state. Generators of Kentucky from Pike County to Crittenden County have worked in the coal fields and mines.

Coal plays an important role in our economy. More than half of our nation’s electricity is generated from low-cost domestic coal.

We have over 275 billion tons of recoverable coal reserves. This is about 30 percent of the world’s coal supply.

That’s enough to supply us with energy for more than 250 years.

But this bill places caps on carbon. This has a negative affect on energy production because it affects the amount of coal we can use.

This will mean loss of jobs, particularly for workers in Kentucky and other coal states.

It also increases energy prices. Just as our economy is starting to turn around. We just don’t need this.

I hope the energy bill encourages renewable fuels as well as clean coal so that we are not relying so much on foreign oil.

S. 139 goes in the other direction of the energy bill. It drives the use of natural gas instead of coal.

Placing caps on carbon means coal production will be 100 million tons lower in 2010 than what we expect to produce in 2005.

That is 25 percent below our expected 2003 level of coal production.

I have heard from coal operators in Kentucky who are on the verge of closing their doors because of natural gas prices.

But S. 139 causes an even worse situation. According to one analysis, it increases natural gas prices by 79 percent.

By forcing reliance on natural gas and a reduction in coal production, this bill results in a loss of 400,000 jobs through 2025 and electricity bills will increase 6 percent.

We already have a natural gas shortage. And for a decade coal was on the downturn because of governmental policies.

These policies have caused our demand for natural gas to exceed the supply.

High gas prices cause Americans to experience difficulties. With the winter coming, prices are expected to go up and put a noose on the American pocketbook.

We must focus on increasing production and using a variety of energy sources. Failing to do this puts our energy independence and national security at stake.

We are turning the corner on the economy and job growth. The last quarter grew by 7.2 percent. We do not need to be losing jobs or causing more companies to shut down business because of increased energy prices caused by the government.

The climate issue is being addressed in other ways that are more conducive to job creation and economic growth.

We are becoming more energy efficient. Energy efficiency has improved 20 percent since 1990. This means that emissions have declined.

In fact, we are expected to reduce emissions by 14 percent by 2012 without any new emission regulations.

Our automobiles are more efficient and running at a higher fuel efficiency than they did just a few years ago.

However, S. 139 ignores the strides we have made and could bring us back to 1970s gas rationing.

As a consequence of this rationing, the cost of gasoline is expected to increase 27 percent.

This increases fuel costs, and further slows our recovery, and takes money out of the pockets of Americans.

I don’t see why we should vote to increase energy costs and unemployment. Voting for this bill does that.

It may make us feel better to support this bill because of its environmental symbolism.

But I will choose substance over symbolism any day.

American jobs are of substance. Getting a green star by your name on an environmental group’s web site is symbolic.

And while that may make one feel good, watching Americans lose jobs from this kind of legislation won’t.

I urge my colleagues to defeat this bill.

Mr. CONRAD. Mr. President, I would like to discuss the Climate Stewardship Act, which the Senate will vote on later today. Although I recognize the challenge of global climate change, I must oppose this legislation because of the drastic negative effect it would have on our national economy.
Our economy depends on affordable, reliable, and abundant sources of energy. Whether that means natural gas, petroleum, or coal, we have a responsibility to ensure that our businesses, manufacturers, and households have access to energy sources at reasonable costs. We depend on energy in almost everything we do in our lives, from turning on the light in the morning, to driving our cars to work, to cooking our dinner at the end of the day. We need access to energy in our homes, and we need access in a way that doesn’t force us to choose between paying our power bill, buying gas at the pump, or buying essentials like groceries and medicine. During my time in the Senate, I have remained committed to keeping energy costs affordable for all North Dakotans and all Americans.

The bill before us would threaten the affordability of these sources of energy. It will require companies that produce and use natural gas, petroleum, and coal to acquire credits for each ton of greenhouse gas emissions for which they are responsible. These credits will have a value of anywhere from $3 to $13 for each ton of emissions. Our emissions levels are in the many millions of tons yearly, which means a dramatic increase in the millions of dollars for the energy industry, costs that will inevitably be passed on to the consumer.

According to a recent MIT study—the same study by the way, that the sponsors of this bill cite in making their arguments—national demand for coal would increase much more slowly under the legislation. Petroleum and natural gas demand will also increase at slower rates. This is because the costs of these fuels will dramatically increase under the bill. It will mean higher gas prices, higher electricity bills, and higher home heating costs.

I am particularly concerned about the cost increases in our international competitiveness. The Kyoto Treaty has not yet taken effect, and it now appears that Russia may be backing away from ratification. In the absence of the Kyoto treaty, other nations across the globe will not be subject to strict greenhouse gas emissions controls. Moreover, even if the Kyoto Treaty does enter into force, there has been bipartisan agreement that the Kyoto treaty contains unbalanced provisions that require disproportionate carbon dioxide reductions in this country while other countries would have to make much less significant changes.

If we were to adopt the bill before us at this time, we would risk putting U.S. manufacturing—which relies on affordable energy—at a significant competitive disadvantage with the rest of the world. Already, we are losing jobs to manufacturers in Mexico and China. If our energy costs were to increase under this bill, our outlook to foreign countries would accelerate. With record Federal deficits and debt, our economy is already in trouble; now is not the time to be making our economic problems worse.

Let me be clear that I am fully aware of and fully acknowledge the reality of global climate change. We need only to look to the droughts in my part of the country and to the massive costs to see the very real effects of global climate change. Human activity since the industrial revolution is warming the planet, melting the polar ice caps, and causing disturbances across the globe. These developments have very serious implications for this country, and for the world.

I do not dispute this ecological situation and I do not dispute the need to do something about it. Let me also state that I very much appreciate the efforts of Senator LIEBERMAN and Senator MCCAIN to try to address this issue. They have done so in a way that genuinely attempts to address a variety of concerns. If I still do not think the legislation we are considering today is the right approach at the right time.

We need to continue working for a solution that carefully balances this need for action with the concerns about the impact on our economy and our competitiveness, and I hope to be a part of finding innovative and creative solutions to global climate change. We need to carefully consider impacts on U.S. manufacturing—which relies on competitiveness with the rest of the world—and it now appears that Russia may be backing away from ratification of the Kyoto treaty. It is clear that more than one of these issues must be part of any legislative approach.

These are enormously complex issues that will require very careful study and an opportunity for extensive public review and comment. Because of the circumstances under which we are considering this legislation, we have not had that opportunity for extensive review. Without that careful study and review to ensure that we understand in detail the impacts on energy production in my State, on our national economy, and on our international competitiveness, I cannot support it. For that reason, I must vote against the bill today.

Mr. DORGAN. My colleagues, Senator McCAIN and Senator LIEBERMAN, have brought a serious proposal dealing with an important issue. The issue of climate change and global warming demands our attention. We live in this fragile spaceship called Earth, and we have but one environment to sustain us. We ignore the health of our environment at our peril.

So the question is not whether but rather how we address these questions that are being raised about our environment, about climate change and global warming.

The proposal we are voting on today is one that I think requires some additional work and some additional thought.

We now live in a global economy and these issues must be addressed globally.

We cannot create emissions caps and targets that will ensure that we maintain or improve our international competitiveness. The bill before us would threaten the competitiveness of the rest of our country at a time when we cannot afford to lose the competitiveness of our manufacturing—which relies on competitiveness with the rest of the world—and it now appears that Russia may be backing away from ratification of the Kyoto treaty. It is clear that more than one of these issues must be part of any legislative approach.

When a global agreement is negotiated, it cannot be an agreement that allows some countries to avoid emission caps while others embrace them. For example, if we through an international agreement embrace emission caps for our country but allow the Chinese or the Indian governments to avoid them, we will simply be developing a strategy for companies to move out of the United States and move their plants and jobs to countries where they will not face such restrictions.

That approach would represent the worst of all worlds. There would be no environmental benefit but we in the U.S. would suffer a heavy economic penalty from plant flight and job loss.

I do not think the McCain-Lieberman proposal is the right way to address these issues, but my vote in opposition should not be seen as indicative that these are serious issues that do need to be addressed.

This amendment and today’s debate and vote will be a constructive start of a healthy debate about what we do to provide leadership on these issues. While I think this proposal today falls short, I intend to be a constructive part of future proposals that can and will offer leadership in the right direction.

Mr. LEVIN. Mr. President, I cannot support the Climate Stewardship Act of 2003 since its effect, if enacted, will be the loss of more manufacturing jobs and millions of dollars for the energy industry, costs that will inevitably be passed on to the consumer.

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Mr. LEVIN. Mr. President, I cannot support the Climate Stewardship Act of 2003 since its effect, if enacted, will be the loss of more manufacturing jobs and millions of dollars for the energy industry, costs that will inevitably be passed on to the consumer.
Let me give one example of how this bill would promote job loss in the U.S. with no benefit to the global environment. In the past decade, a large number of companies have moved their manufacturing plants overseas. Take, for example, a U.S. manufacturing company that had seven plants in the U.S. in the 1990s. Today it has only five left, because two moved to countries with cheaper labor. Assume that those five remaining domestic plants each emit 20,000 metric tons of carbon dioxide for a total of 100,000 metric tons. Under this legislation, reasonable estimates are that the company’s cap could be placed at around 90,000 metric tons of carbon dioxide credits. The company, already under heavy competition because of cheap labor costs overseas, faces a choice: pay to reduce emissions at its five plants by 10 percent, or move another one of its plants overseas, say to China. If the company moves one of its five plants abroad, it has 10,000 credits remaining to play with which it can use to actually increase emissions at its four remaining plants, or it can sell them. So this bill adds to existing incentives, such as lower labor costs and no safety standards, and manufacturing overseas, and the result is that we lose jobs and the environment gains nothing. In other words, when this bill’s mandates are imposed on sectors of the economy that can pick up and move overseas, it adds another incentive to do just that.

The United States must take a leadership role in addressing climate change, but that leadership must move us in the right direction. It is not sound leadership to give additional incentives to U.S. businesses to move their facilities, and the jobs that go with them, to other countries that don’t have the costly environmental standards which this bill would impose on U.S. manufacturing. It is not sound leadership to simply shift industrial emissions from American soil to countries which have no emissions standards. And it is certainly not sound leadership to act unilaterally in a way that puts U.S. manufacturers at a competitive disadvantage when there is no built-in incentive for other countries to follow. In fact, the opposite is true: the unilateral approach in this bill provides an economic incentive for countries to look to their own manufacturing jobs not to follow our lead.

Effective and sound leadership would be to tell competing countries that we are going to adopt high environmental standards if they will join us, or, in the alternative, leadership is getting countries to agree (1) to the adoption of tough environmental standards, and (2) to refuse to purchase products from countries which won’t adopt those environmental standards. Sound leadership, in other words, is working to create a new global system where all countries take steps to reduce global warming, so that there is no incentive to move jobs and emissions from a country with high environmental standards to one with low environmental standards.

Climate change cannot be addressed unilaterally. It must be addressed multilaterally. It doesn’t help the global environment to push greenhouse gas emissions in one country only to have them pop up in others. We need a Kyoto-type treaty which binds all countries. Otherwise, there is a perverse incentive to move more and more of the jobs and emissions to countries with lower environmental standards. That does nothing to reduce greenhouse gas emissions and does damage to U.S. jobs.

To achieve a global agreement will require our putting maximum pressure on all countries to join it, so that the emissions of greenhouse gases can be reduced, not just shifted. Shifting manufacturing jobs and the production of greenhouses gases from here to other countries is not a solution to climate change. It would just be another economic nightmare at a time when our economy is already losing jobs at an historic and alarming rate.

We have already lost enough American jobs to countries with cheap labor, no safety standards, and no environmental standards to one with low environmental standards. To add more incentives for companies to move overseas to countries with no limits on greenhouse gas emissions, as this bill would promote, is not sound policy. Global climate change is just that: global and it needs to be dealt with globally, not unilaterally.

Mr. ENZI. Mr. President, anyone who has picked up a copy of this legislation and read it has to be forgiven if he or she was soon reminded of the words of Yogi Berra. “It’s deja vu all over again.”

After all, it is not as if this topic is unfamiliar to us. When the debate first began on the Kyoto talks, the U.S. Senate made a clear and direct statement of principle on this subject. We drew a line that was not to be crossed by the president and his negotiators in their effort to reach an international climate change agreement. By a vote of 95 to 0 the Senate passed Senate Resolution 98, also known as the Byrd-Hagel resolution, that sent a clear message to the world that the Senate would not support any climate change agreement that did not include all nations equally. We also said we would not support an agreement that would cause serious harm to our economy.

We crafted our message to the administration to counter the concerns that had been raised that a global climate change policy could be imposed on the United States that would “result in serious harm to the United States economy, including significant job loss, trade disadvantages, and increased energy and consumer costs.” The Senate was also concerned that efforts to reduce global emissions would be imposed on the United States without consideration for the best emissions controls and most advances in emissions reductions already exist, and not on underdeveloped nations where emissions would continue without any effective controls.

What has changed since then? Nothing. We still need the benefits of a strong economy. We still need to protect American jobs. And we still need to avoid trade deficits and ensure consumers are not forced to choose between paying their energy bills and buying food.

We still need to protect American jobs. And global climate change is still a global issue.

Unfortunately, this reality contradicts the language of the proposal we are debating today just as surely as it contradicts the message we sent the administration with the Byrd-Hagel language.

The proposal before us, which is clearly an energy tax, would force the United States to unilaterally disarm its economy and force American jobs overseas without providing any environmental benefit. An energy tax, like the one proposed by Senators LIEBERMAN and MCCAIN, would, in fact, be an environmental nightmare. Any loss of jobs in the United States would shift production to other parts of the world where there are no controls over the manufacturing process.

The best way to help the environment around the world is to ensure we have a strong economy here at home. If we want to stress for improved environmental conditions then we should stand behind the principles of Byrd-Hagel and insist our global climate change policy does not harm America’s workers. If we want to improve global conditions we must insist that all nations responsible for emitting greenhouse gases participate and reduce their own emissions.

Just in case anyone is not clear about what is going on and what this legislation really does, I want to take a moment and explain how it would slow down our economy and force jobs out of the country.

To begin with, the bill establishes a requirement for registering all industrial emissions, and it requires the officials in charge to make assumptions about the level of total emissions that are due to transportation.

We can only assure that these assumptions are made for one of two reasons. We want to know the transportation emissions level so we can blame the rest on industry, or, we want to know the transportation emissions level so we can start to apply limits and regulate family cars. I have had the opportunity to visit California and noticed a remarkable thing about this State that has done so much on its own to regulate and control private vehicles. While the rest of the highway was packed with cars, the HOV lanes were wide open and very poorly utilized. And yet this does not reflect the fact that private vehicles which is a major source of greenhouse gas emissions. I wonder, if this bill was so serious about
improving the environment, why would it leave out such a major source of emissions?

Don’t be fooled. If this program is passed then that will be the next step. Why would we put in place such an ineffective proposal unless we didn’t intend to take it to the next step and regulate private transportation? We don’t want to, they do.

This proposal would hold industry responsible for all other, nonindustrial or transportation, emissions—excluding human beings, who breathe out CO₂ on a regular basis, animals, plants, volcanoes, forest fires, and private homes that burn natural gas, fuel, coal or wood. Keep in mind that one natural homes that burn natural gas, fuel, coal or wood. Keep in mind that one natural
cataclysmic event, such as a volcanic eruption or a catastrophic wildfire eclipses anything, by way of emissions, that all of mankind can produce together on an annual basis.

We also have a situation where our trees that once could have served as sponges to soak up greenhouse gasses, are now older and absorb less CO₂. In fact, because of the age of many of our forests they are now CO₂ emitters.

The bill also completely neglects the most common and prevalent greenhouse gases, all of the gases found in our atmosphere, this particular gas is the most insidious. It contributes to more fluctuations in temperature than any other gas. It has the greatest impact on local and global climate, and it too is emitted by industry and by numerous natural sources and yet it is not included anywhere in this bill.

What is this gas? It is water vapor. Of course, Why, if we are really serious about using this legislation to control temperatures and climate, don’t we include water? Because this effort is not about environmental protection. It is about imposing an energy tax and controlling the economy.

The next thing the bill does is impose a cap on otherwise unregulated emissions by industry. Once again, this cap does not take into account the emissions generated by other sources. The result is that we would force industry to assume all responsibility and pay for all emissions, regardless of where they come from. Whether the emissions came from individuals or nature, we would still hold industry responsible. There is a new discovery that was recently made in Wyoming that increases the lunacy of holding man responsible for something that nature releases on its own in an abundance that man never has.

I will read from an AP article that ran in a Wyoming newspaper on October 27 of this year. “Scientists measuring mercury levels made a startling discovery at the base of Roaring Mountain [in Yellowstone National Park]: possibly the highest levels of mercury ever recorded at an undisturbed natural area. According to their measurements, the scientists found that Yellowstone is a potentially big source of our nation’s mercury. “It is conceivable... that Yellowstone could emit as much mercury as all the coal-fired power plants in Wyoming. . . . That’s not a real estimate but something based on just a few measurements,’ [one of the scientists said] ‘it could be even bigger than that, we just don’t know.’ It would be intellectually dishonest, for us to assume that, given all of the uncertainty in these issues, that industry will sit back and quietly assume the cost and burden of emissions reductions without either passing them on to consumers or even to excuse itself from the limits altogether.

The cost of the tax will either be paid by consumers who can barely afford their own energy costs today, or we will force jobs offshore and into areas where there are no limits on energy consumption and pollution.

There should be no doubt in anyone’s mind that this bill is all about economics, particularly because that’s what the entire global warming debate is really about—economic costs—higher costs would be exponentially greater than those assumed by other nations, or to push those gains off onto another sector, more specifically the transportation sector, and require us to impose costs on consumers and taxpayers that they clearly cannot afford.

It is a matter of economics of scale and Europe knows it.

The United States is much physically larger than any other nation that we compare ourselves against. The other nations are much younger and their infrastructure is not as well established. We are considering a bill that has no limits on any of our transportation. We are considering a bill that would force us to assume that all transportation emissions are the same as our transportation. This is a big source of the uncertainty in these issues, that industry will sit back and quietly assume the cost and burden of emissions reductions without either passing them on to consumers or even to excuse itself from the limits altogether.

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on its economy. In making a basic cost/benefit analysis, President Putin’s chief economic advisor, Andrei Illarionov declared, “If we are to double GDP within the next ten years, this will require an average economic growth rate of 7.2 percent. No country in the world can double its GDP with a lower increase in carbon dioxide emissions or with no increase at all.”

The great baseball philosopher, Yogi Berra, was right. It is deja vu all over again. The same cases we have considered before and without have a clear statement of policy in place in the Byrd-Hagel resolution that says, in responding to global climate change concerns, we cannot agree to any proposal that would result in serious harm to the United States economy. It already says we must work to avoid significant job loss, trade disadvantages, and increased energy and consumer costs. It also makes it clear that this is a global issue, one we can’t tackle alone. If we, as a nation, want to address improvements of global conditions then we should stand behind the principles of Byrd-Hagel and insist our global climate change policy does not harm America’s workers and that all nations responsible for emitting greenhouse gases participate in emissions reductions.

This proposal would clearly cause serious harm to our Nation’s economy, cost us American jobs, and result in a tax on the nation’s energy and transportation systems. These taxes would put our nation at a serious disadvantage with our competitors and do nothing to improve our environment.

Mr. ALLEN. Mr. President, fellow colleagues, please do not overreact by the claim that the climate is changing. The climate has always changed naturally. Thanks in large part to scientific research carried out in the United States, we know much more about our climate than we did mere 30 years ago. More than anything else, we now know that climate never has been, and never will be, constant.

When we civilization arose with the flowering of agriculture, some 5,000 years ago, climate scientists tell us the earth was a few degrees warmer than it is today. At one time, what is now the dry desert southwest was a much wetter tropical environment. Climate scientists also tell us that 300 years ago it was a few degrees colder. Europeans suffered through the Plagues, ice skaters graced the Thames River in London. Mr. President, 150 years ago, when that “Little Ice Age” ended, America embarked upon its manifest destiny.

In the last 100 years, the Earth has warned an additional degree. American crop yields quintupled, life span doubled, wealth became democratized beyond the wildest dreams of even the most optimistic. In that 100 years, our free economy was powered largely by fuels from the earth. Some of these produce carbon dioxide, which scientists have known, since 1872, can slightly warm the surface of the earth.

At the same time, our competitive economy forced increased efficiency. The family car now uses half as much fuel as it once did. Hybrid automobiles achieve as much as seventy miles to the gallon. All in all, we produce a dollar’s worth of goods and services with 40 percent less energy than we did a mere 30 years ago.

This remarkable change, where the freest society on Earth became the most capable large economy, did not happen because of massive taxation in order to change the lives of free people. No, it happened because people were free–free to buy the most proficient technology, and, above all, free to invest in corporations who understand what people want. And one of those desires is abundant energy, used efficiently. As has been said, over and over, the future belongs to the efficient.

And what of the warming of the planet? In the blazing summer of 1988, in the middle of the Kyoto Protocol, NASA scientist James Hansen first raised the spectre of global warming caused by carbon dioxide. The alarm was sounded, even as others argued that the gloom-and-doom forecasts were overwrought and could lead to disastrous policies.

Fifteen years later, thanks in large part to research fostered by this body’s committees on science, we know that the calm scientific heads were right.

NAPA scientist James Hansen, who first raised the spectre of global warming, now agrees with those who were once his critics. Writing in the Proceedings of the National Academy of Sciences, he recently stated that we know how much the planet will warm in the next 50 years to a very small margin of error. That amount is precisely the small warming that the calmer heads had forecast some 15 years earlier.

This same scientist has recently stated that some may have exaggerated the threat of global warming & political science purposes. Just last month, he wrote in the online journal “Natural Science”: “Emphasis on extreme scenarios may have been appropriate at one time, when the public and policymakers were relatively unaware of the global warming issue.” Moreover, according to a report issued by the Global Climate Coalition, mandatory emissions goals could result in a loss of gross domestic product equal to $300 billion in 2010 alone, assuming that 2010 emissions are held at 1990 levels. How many American jobs would be lost as a result? How many companies will have to close their doors? I would like to read to you, part of a letter from the Secretary of Commerce, Don Evans, Second the Acting Labor, Elaine Chao, and Acting Administrator of the Environmental Protection Agency, Marjorie Horinko:

According to an analysis conducted by the independent Energy Information Administration, S. 139 would cause an estimated average loss of 460,000 American jobs through 2025.

It goes on to say, 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 American people.

Mr. President, I ask unanimous consent that the entire text of this letter be printed in the Record immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. It is not right for any scientist or any other person to exaggerate our political climate. As much has been made of the vociferous debates before the Senate about past climate change, little has been said about the remarkable scientific agreement about the future. Scientists all agree that human affect on any climate change would warm the coldest air of winter much more than the heat of the summer. When Russia’s Prime Minister Putin visited the Kyoto Protocol last week, he noted that, more than anything else, humans have made Siberia more habitable, according to Dr. Pat Michaels, State Climatologist at The University of Virginia.

The most recent consensus of scientists is that the rate of any warming over a long period of time is very small. And, the slight warming trend is much lower than the alarmist projections of the United Nations, or those who may have touted “extreme scenarios,” or those who strive to profit politically from climate change scare tactics.

Then, one may ask, what is to be done? After all, we cannot go on adding carbon dioxide to the atmosphere forever. We won’t. If history is any guide, our technology will continue to evolve toward increased efficiency, new materials and new propulsion methods in the next 100 years.

In 1800, we were a Nation and world moved by animals and wind on water. In the next 100 years, the locomotive transformed our economy and our Nation. By 1900, the automobile had just been invented. In the next 100 years, transportation and energy fueled the great democratization of wealth and the spread of culture.

In 1900, 7,600 people died in the Galveston Hurricane. Mr. President, 100 years later a similar storm hit Texas and killed no one, thanks to advances in meteorology and satellite technology. Could anyone have imagined this in 1900, as we buried the dead from the largest natural disaster in American history? Hardly. But this is how a free, creative world develops if the governments allow ingenuity to thrive to improve our lives.

What will be the technology of the future? No one can say for certain. But we all can spur its development by encouraging the marketplace in the vast, diverse fields of nanotechnology or aeronautics, for prime examples.

And that is the state of our climate. Climate will continue to change. That cannot be stopped. But so will technology change, unless the Government
chooses to hinder new investment in better materials, fuels and systems. Fortunately, now sound science, rather than political science, shows warming is a much slower process than was once feared.

My bottom line is that I cannot countenance the loss of tens of thousands of American jobs based upon the scientific factual evidence surrounding this measure.

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, the job loss 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 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 “transition 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 gases. 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 Horinko, Acting Administrator of the Environmental Protection Agency.

Mr. INHOFE. Mr. President, to draw to conclusion this debate, let me repeat a couple of things we did last night. I will briefly address the science issue. I know there are people out there thinking the science is settled. The science is not. Last night I went into detail and I will repeat a couple of significant points.

First, Frederick Seitz, the past president of the National Academy of Sciences, compiled the Oregon petition which had 17,800 independently verified signatories—holding degrees of Ph.D. They came to this conclusion: There is no convincing scientific evidence that the 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.

Again, the Heidelberg Appeal, over 4,000 scientists, 70 of whom are Nobel Prize winners. The Heidelberg Appeal that says there is no compelling evidence that is existing today to justify controls of anthropogenic—man-made greenhouse gas emissions.

Dr. Richard Lindzen, MIT scientist and member of the National Academy of Sciences, said—and I don’t think anyone would question this credentials—said there is a definite disconnect between Kyoto and science.

Should a catastrophic scenario prove correct, Kyoto would not prevent it.

Lastly, the Harvard-Smithsonian study, the most exhaustive study out there, 240 peer-reviewed papers produced by thousands of researchers over the last four decades, says the science is flawed. It is important people realize that is the situation.

Probable the most significant item we should have been talking about all the time instead of this science—since it is a fact now, I think people understand it and there is on both sides of this issue—is what is the effect.

Last night we had a chance to talk about the National Black Chamber of Commerce and the Hispanic Chamber of Commerce, how it would disproportionately hurt them in losing jobs. A study that no one has challenged concluded that Kyoto would cost 511,000 jobs of Hispanic workers and 861,000 jobs held by Black workers. Is this something we all understand?

My point is: We need Members need statistics for their own State. The State of Illinois is losing 159,000 jobs; the State of Indiana loses 194,000. This is a study done by Penn State University.

The other significant point is that we are voting on an amendment. This amendment is somewhat pared down. Everyone realizes that this amendment, as has been stated many times by the distinguished Senator from Connecticut as well as the Senator from Arizona, is just a first step. So everyone has to look at this. This is the Kyoto Treaty. It needs to be looked at in that respect.
Of course, Richard Lindzen, I don’t think anyone is going to question his credibility. These studies—particularly the Harvard-Smithsonian study—is a very significant one.

I think the debate has been good. I do not question it when the Senator from Arizona, Jim Jeffords, Camelot, says we will be back. I am hoping it will be necessary to come back because I am hoping we will defeat this amendment. But it is very significant.

Lastly, let me mention I do not know how so many of these groups could be wrong. We have almost every union in the country—the International Brotherhood of Electrical Workers, the International Brotherhood of Teamsters, the United Mine Workers, the United Steel Workers. We have all these jobs shown up here, some 3.6 million jobs, that would be lost. This analysis was done by a credible organization, Penn State University.

I cannot imagine that any Member of this Senate would come up here and look at this chart and not realize that here we are—we have been going through a recession that began in March of ‘00, and we are now pulling out of this recession. The jobs are looking good right now. For something such as this to pass would push us right back in a devastating position.

So when you look at what we are talking about today, we are talking about something that would pass in America, would not have anything to do with Mexico, anything to do with China, anything to do with India. I can assure you, right now people from those countries are sitting back with their fingers crossed, hoping this passes, because this would be the biggest jobs bill for Mexico and India and the other developing nations that we could pass.

I say to Senator Lieberman, thank you very much for the spirited debate, as I also thank the Senator from Arizona.

Mr. President, I reserve the remainder of my time, if there is any.

The PRESIDING OFFICER. You have one second.

Mr. INHOFE. I reserve that.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Oklahoma as well. It has been a spirited debate. It has been an important and historic debate, but it is the first, I would guess, of many on this critical subject.

I must say, it has been a disappointing debate in one regard for me; that is, we are still disagreeing about whether global warming is a problem. The fact is, the overwhelming evidence, upheld by scientists around the world and in America—the National Academy of Sciences, et cetera—says that the planet is warming, and it is happening because of human activity. You cannot look at this picture, a satellite picture—seeing the reduction of the icecaps from where it was—and the red lines show what it was in 1979, 24 years ago—and not say it is real.

Senator Akaka from Hawaii told us last night that the sea level is rising around Hawaii. Senator Snowe of Maine told us that the sugar maples are dying because it is getting warmer. I myself reported on a story from Inupiat Indians in Alaska saying they had robins for the first time in their village because it is getting warmer.

This is real. I wish we could agree on the reality and then argue about what we should do about it. As I hear the bellicose scientists on the other side, I want to predict, respectfully, that we are going to look back at those scientific testimonies and put them in the same category as the scientific studies that were introduced by the tobacco industry years ago, saying that tobacco did not harm health or cause cancer, or the studies that were introduced by the chemical industry that said chlorofluorocarbons did not put a hole in the ozone layer, all of which we knew was bunk. I am afraid that is the way we are going to look back at this evidence offered in this debate.

Secondly, a lot of the argument about the impact of our proposal on costs and cost of living and jobs is not related to our proposal. It is about the Kyoto protocol. It is about earlier legislation. It is not about the McCain-Lieberman amendment before the Senate for a vote.

The one study on our amendment, the MIT independent study, says, in fact, costs will go down in the energy field, that the average cost per household will be $20 a year—well worth what we are going to get in return for a safer, better life for our children and grandchildren. They say there is no job loss that can be expected. In fact, a lot of major entrepreneurs and investors—and I put a letter in the RECORD to Senator Snowe from 60 leading entrepreneurs from Silicon Valley, who say our amendment will create hundreds of thousands of jobs. The 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:

Mr. LIEBERMAN. Mr. President, this is a call to responsibility. It is a call to leadership.

I remember last year, as we were coming close to the vote on the Iraq resolution, I met with a group of officials from the administration and Congress—members of both parties—with the Minister of Defense from an allied government. Somebody from the administration said: How can we get the Minister of Defense from an allied government to support us more on the potential of a war against Saddam? The European Minister said: Get the American business community to support us. It was a call to responsibility, a call to leadership.

The venture capitalists and private equity leaders concerned about the growing threat of global warming and the specter of global warming and potentially devastating effects of climate change. We urge you to take appropriate measures to address this critically important issue.

Thank you for your consideration.

Kind regards,

David Roux,
Managing Director.

OPEN LETTER FROM BUSINESS LEADERS, October 17, 2003.

Senator Olympia Snowe,
Washington, DC.

Dear Senator Snowe:

We are business leaders and scientists alarmed by the reality of global warming.

Schooled in science and innovation, we recognize that the risks and complexities of climate change are significant, and we strongly believe that drive and ingenuity can manage those risks and solve those complexities. While any response that is sufficient to avert dangerous climate change will be long term, the nature of the problem requires action now. The required response—global and domestic—must be equitable and support economic growth based on free market principles.

As entrepreneurs who co-exist with government policies, we know that truly effective policies set clear goals and leave businesses free to decide how to meet those goals at lowest cost. We trust any policies you propose have serious environmental goals and encourage the prudent use of market forces to achieve them.

Policies employing strict goals and flexible means unleash the power of competition and spur innovation to protect the environment. A healthy economy and a healthy environment go hand in hand. American business has the ingenuity to solve the problem of global warming while continuing to prosper. Indeed, businesses that find ways to lead in solving this problem will prosper even more.

While there is still debate about the levels of greenhouse gas reductions necessary to stabilize the climate and protect the United States economy, several things are clear: Reductions must begin immediately.

Voluntary efforts alone won’t do the job; and 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,

Business Leaders Taking Action on Climate Change.

Mr. Lieberman, Mr. President, this is a call to responsibility. It is a call to leadership.

I remember last year, as we were coming close to the vote on the Iraq resolution, I met with a group of officials from the administration and Congress—members of both parties—with the Minister of Defense from an allied government. Somebody from the administration said: How can we get the Europeans to support us more on the potential of a war against Saddam?

The European Minister said: Get the administration to do something about global warming.

This inaction, lack of leadership, debunking by the administration of the problem, failure to accept responsibility is part of the reason we are so deeply divided from some of our closest allies.

Senator McCain and I and our cosponsors on both sides of the aisle have...
Mr. INHOFE. Mr. President, thank you very much.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. LEAHY. Mr. President, I have not spoken to the two managers, but I feel confident it would be OK with them. This is not in the form of a unanimous consent request.

Following the vote, Senator Boxer wished to speak for 10 minutes. Following that, Senator BINGMAN is ready to offer his amendment. He will take a limited period of time. Following that, Senator LEAHY has an amendment. He has asked for 30 minutes. So that is just general information we are going to try to move on as quickly as possible on the Healthy Forests matter.

The PRESIDING OFFICER. The question is on agreeing to the Lieberman-McCain amendment.

Mr. LIEBERMAN. Mr. President, I ask for the yea's and nays.

The PRESIDING OFFICER. There is a sufficient second. The clerk will call the roll.

So that is just general information we are going to try to move on as quickly as possible on the Healthy Forests matter.

It is always a difficult matter to balance environmental protection and the need for economic development and jobs. I believe that global warming is a matter of great international importance and the 43 votes in favor of this bill puts the administration and others on notice that there is considerable sentiment for stronger action to address this problem.

As a Pennsylvania Senator, I have a particular interest in the continued use of coal, our Nation’s most abundant energy supply, especially in the context of the billions of tons of bituminous coal in the western part of Pennsylvania and anthracite coal in the eastern part of Pennsylvania. This bill would have a serious impact on our steel industry, our chemical industry, and manufacturing.

In this context, it is very difficult to adopt a bill by the year 2010 since we cannot predict at this time what the situation will be with our national and State economies.

In addition, it is very difficult to limit industry in the United States when we do not have a plan for the rest of the world in curbing greenhouse gas emissions. That would have a harmful effect on the competitiveness of the United States. An international plan is necessary. Unilateral action by the United States would not solve the problem. I have, with other Senators, urged the President to work through international means to address global climate change. I support his efforts and the consequences for the national and State economies. It is likely that stronger action will have to be taken in the future on a multilateral basis.

These questions remain: What would the reductions under this legislation do to climate change? What are the anticipated costs? Who would pay the costs? What are particularly vulnerable industries that could not, for instance, pass on any increased energy costs? What is the expected impact on fuel supply and demand, particularly with regard to fuel-switching and natural gas prices? What will be the economic growth and overall competitiveness in a global economy if only U.S. emissions are reduced?
While I was unable to support this particular bill, I believe it will give impetus to action to deal with global warming. I look forward to working with my colleagues in the Senate on this important issue in the hopes of finding common ground and a sensible balance among the goals of environmental protection and economic development. I encourage supporters and opponents of this bill to consider the concerns of each other and work in earnest to bridge the many differences in support for this important issue.

Mrs. LINCOLN. Mr. President, although I am extremely concerned about global warming, I voted in opposition to Senator MCCAIN and Senator LIEBERMAN’s Climate Stewardship Act. My chief concern was that this bill would raise gas and electric prices at a time when Arkansas’ economy is struggling to recover and many residents from my state are finding it difficult to make ends meet.

I feel compelled to say that we have a responsibility to seek a solution to global warming. But at this time, when our economy is struggling and our federal deficit is at record levels, I cannot support a measure which in all likelihood will result in higher energy prices for consumers in Arkansas and a loss of jobs in my state. If the United States stands alone on this issue, I fear other countries will be able to take businesses away from our country with the lure of weaker environmental regulations.

A comprehensive global solution must be developed that includes all nations. I do believe we must continue to work toward initiatives to reduce our dependence on foreign oil and encourage cleaner sources of energy, such as the numerous biodiesel measures I have fought to include in the Energy Bill.

I would like to take this opportunity to voice my opposition to the Bush administration on this important issue. The indifferent and callous approach taken to global climate change sent a message to the world—that this issue is too important to voice my opposition to the Bush administration on this important issue. The indifferent and callous approach taken to global climate change sent a message to the world—that this issue is too important to take to global warming that this issue is too important to take to global warming.

The administration’s approach is frustrating because engaging the world particularly the developing world—is the only way we will ever get a handle on rising greenhouse gas emissions. Small reductions in emissions made by the United States will be meaningless if those reductions are made unilaterally. We must have assurances that the world is making a substantial commitment on the issue as well—before we handicap our own economy.

This will take time, but solving the problem of global warming is a life-time endeavor by any estimate, for our generation, and the next. Part of this effort will include massive investments in new energy technologies, in renewable, in alternative energy, in hybrid cars and fuel cells, and in making our economy and the world’s economy more energy efficient. It will likely, if we are to make any serious impact on the climate change, take time and will require a leadership role on this issue that it should, involve mandatory greenhouse gas reductions by all nations.

I would like to compliment Senators MCCAIN and LIEBERMAN for working so hard on this proposal, and for attempting to find a balanced solution. If we had more time and more attention from the administration, I am confident that we could work together on a common sense bill that would make sense in the United States to reduce greenhouse gas emissions without threatening the U.S. economy or our global competitiveness. Such a bill would hopefully complement a meaningful and real global consensus on how to address human-caused climate change.

I voted against McCain-Lieberman today because I don’t think the country is ready to take the steps outlined in their bill and because I was concerned about the impact on the state, particularly agriculture, from increased natural gas prices. But I agree that we must move forward aggressively to put the United States and the world on track to significantly reduce global greenhouse gas emissions. It will only get harder the longer we continue to ignore the problem.

Mrs. BOXER. Mr. President, I want to thank my colleagues, Senators MCCAIN and LIEBERMAN, for all their hard work on S. 139, the Climate Stewardship Act, and express my full support for this legislation. Unfortunately, this bill did not pass the Senate. This bipartisan legislation would have been a meaningful step in the right direction toward reducing our Nation’s greenhouse gas emissions and would have helped address the problem of global warming.

There is no question that climate change is one of the most serious environmental challenges facing this nation and the world. We know that climate change is real. The overwhelming weight of scientific opinion supports the idea that climate change is occurring, that it is human-induced, that it poses significant consequences, and that we need to do something about it.

California has a great deal to lose if we do not take steps to halt and reverse climate change. My State enjoys tremendous ecological diversity ranging from our cool and wet redwood forests of the North Coast, to the hot Mojave and Colorado deserts in the southeast, to the vast fertile agricultural stretches in the Central Valley. Climate change is a real and present threat to those natural ecosystems.

Scientific predictions indicate that human-induced global warming may produce a 3- to 10-degree rise in temperature over the next 97 years. That means that the weather we know today will be enough to change the timing and amount of precipitation in my State. This could, for instance, lead to increased summer stream flows, which would intensify the already significant controversy over the allocation of water for urban, agricultural and environmental needs.

Scientists also predict that by the year 2050, California will face higher average temperatures every month of the year in every part of the State. The average temperature in June in the Sierra Nevada Mountains, for instance, could increase by 11 degrees Fahrenheit. The snowpack in the Sierra, which is a vital source of water in the State, is expected to drop by 13 feet and to have melted entirely nearly 2 months earlier than it does now. This means that the precious water on which we now rely for agriculture, drinking water, and other purposes.

In light of the threat global warming poses to my State, the Nation, and the world, I believe we must take steps to reduce our greenhouse gas emissions. The Climate Stewardship Act would have required companies in the energy, transportation and manufacturing sectors to reduce their greenhouse gas emissions to 2000 levels by 2010. The bill would have provided tax incentives for the development of energy-efficient technology. The Climate Stewardship Act would have also encouraged the development of environmentally-friendly manufacturing technology.

This bill would have provided a reasonable approach to help us achieve the goal of reducing greenhouse gases and addressing global warming. I am extremely disappointed that the Senate did not pass this legislation.

The PRESIDING OFFICER. The Senator from Nevada.
Mr. REID. Mr. President, what is the regular order?

HEALTHY FORESTS RESTORATION ACT OF 2003

The PRESIDING OFFICER. The regular order is under the previous order of the Senate, which will resume 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 fuel 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 Nevada.

Mr. REID. We need the manager of the bill on the floor for the majority. Senator BINGAMAN is ready to offer an amendment. He was here all day yesterday.

What we would like to do is have Senator BINGAMAN offer his amendment—I have not spoken to the two leaders—have that set aside temporarily and then move to the Leahy amendment. They will both be relatively short in time, and then we can arrange an appropriate time for voting on these.

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. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that I may speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOOD ECONOMIC NEWS

Mr. FRIST. Mr. President, as we prepare over the next several minutes to shift gears back to a very important piece of legislation, I just want to take this opportunity to comment on another issue and that is the issue of the economy. There is very good news, news that was released today, and that is that the economy grew by 7.2 percent in this last quarter—in July, August, and September. This to me is really a piece of news, especially as we know the people are following this economy very closely, especially to see what the response is to the President’s tax relief package several months ago.

Mr. President, 7.2 percent is spectacular in many ways. In fact, it has been nearly 19 years—I guess the last date was in 1984—that the economy saw such growth. This news is not totally unexpected. For the last several days I have come to the Senate Chamber to suggest that this is the sort of figure we could expect, in large part because of the policies we enacted earlier this year, specifically the tax reductions which we knew would result in an increase in business investment, now seeing that hard data of growth—7.2 percent in the last quarter.

This positive news was also reflected and added to by this morning’s numbers which showed that personal consumption was 6.6 percent as well. It is interesting that consumption makes up about 70 percent of our economic growth. That is, 70 percent of all of this economic growth is accounted for by consumption. If we looked at just that impact of consumption alone, we would have seen growth in our economy of 4.6 percent.

Equally if not more important for the longer term, another measure, business investment, grew by 11.1 percent. To me this suggests we will continue to see growth well into the future as they rebuild, as they reinvest, as they retool their factories and prepare for the future.

Government spending, another component of growth which accounted for much of the growth earlier this year, was not the most important factor accounting for today’s news. Indeed, Government spending only increased about 1.4 percent. I say that because a lot of people who have spent so much these days in terms of Government—that is why the economy is growing. But as the figures show, most of that growth is in this dramatic increase in consumption, an increase of 6.6 percent according to today’s news.

Maybe lost in the big news this morning is what really matters in this growth—the jobs issue. The Department of Labor reported this morning that the initial claims for unemployment dropped another 15,000 last week, affirming this downward trend in unemployment. So this morning we have good news released. The numbers released today indeed indicate a ramp up to recovery. I do expect the growth in the quarters ahead will settle down to a more realistic and sustainable level.

The point is, we are making progress. We are making real progress. The policies we put into place are beginning to take hold.

We certainly have a lot more work to do. We must do more to create jobs and bring economic recovery to all of our citizens. Thus, we really can’t rest on these reports today. But at the same time, in this body we must continue to work toward reducing the cost of doing business in this country.

I immediately turn to issues we are talking about, both on the floor and off—health care, energy, class action, litigation costs. We need to remove barriers to investment and economic growth so employers can create jobs.

Our work here in the Congress must go forward with renewed dedication. Today we do see firsthand the effects of the President’s economic policies. Such results should encourage all of us to work even harder to bring economic recovery to the doorstep of every American.

Mr. REID. Mr. President, I, too, am pleased at the good news that the GDP has gone up. But for the 3 million people who have lost jobs, J-O-B is more important than G-D-P. This last month, another 46,000 jobs have been lost in this country; during this administration, more than 3 million jobs. This is the only President since Herbert Hoover who has had a net loss in jobs. I think this is very unfortunate. I hope the GDP continues to grow and in the process create jobs.

Mr. President, the distinguished chairman of the committee that has jurisdiction of the bill now before the Senate and I spoke with the majority leader and minority leader a few minutes ago. It is the wish of the distinguished chairman of this committee, the sponsor of this bill, that when an amendment is offered—unless there is some exception—we are going to debate that and vote on it, dispose of it one way or the other.

As we spoke to the majority leader, the distinguished Senator from Mississippi and I—everyone should be—we were both in tune with the majority leader. Today’s votes are going to take 20 minutes. After 20 minutes, the majority leader said he is going to ask the clerk to proceed to take the vote. There are going to be people who miss votes, but that is their problem. All staffs who are listening to me, everyone should understand, if the majority leader follows through on what he said—and I am confident he will—a few people will miss votes. But I think fewer will miss the second time and fewer the third time.

If we are going to finish this most important bill, we cannot have votes going uncounted, and that is what they were going yesterday. It is unfair to the managers of the bill, unfair to the Senate, unfair to the country.

I hope that following the vote of Senator BINGAMAN, we will stick to 20-minute votes, no matter who isn’t here for the vote.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me compliment the distinguished acting majority leader. He correctly states the content of the conversation that we had which included the majority leader. The custom, in recent history anyway, has been to accumulate amendments and then have the votes stacked to occur at a certain time. That is well and good, if you know how many amendments you have. We don’t have a finite list of amendments. That is one thing we need. If Senators would let us know which amendments they intend to offer, we can probably manage this bill more efficiently and save time for everybody.

We want to finish the bill tonight. That is my intention. I think that is
I intend to work with all of our colleagues on this amendments today. What I especially look forward to is completing the work on this legislation. It was a very exciting development to have yesterday’s vote by such a large plurality. It shows what we can do if you stay at it and try to find common ground in an area that is about as contentious as you can find. As Senator COCHRAN noted, we hope colleagues will bring amendments to the floor and move expeditiously.

Mr. WYDEN.

Mr. President, I will be very brief. I want to recognize my friend from New Mexico who has spent a lot of time on this bill and has an important amendment.

As we go to the amendments this afternoon—particularly those from my side—I think it is critically important that the bipartisan compromise which was consummated yesterday in a 97-to-1 vote on the floor of the Senate not become unraveled today. This is, in my view, the only bill that can make it to the President’s desk. It is a balanced approach on management. It ensures that the public has every single opportunity to participate in the debate about forestry but, at the same time, it does not establish a constitutional right to a 5-year delay on every conceivable matter that may relate to the forestry sector.

In my view, it provides for potentially lifesaving hazardous fuel reduction projects in our national forests. We have to respond to what we have seen in California. It is a heartbreaking need in that State. If this legislation as set out in the compromise doesn’t become law, what we have seen in California in the last few days, and as we saw in Oregon last year, is going to be what the country faces year after year.

I am very impressed in working with our colleagues in an expeditious manner. I thank Senator COCHRAN again for all of his cooperation. Senator BINGAMAN has been waiting for a long time.

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Not later than 180 days after the Secretary of Agriculture exercises the authority provided by this section, the Inspector General of the Department of Agriculture shall submit to the Committee an audit of expenditures of funds provided under this section. Upon a determination by the Inspector General that specific amounts of such Federal funds are being used for purposes other than fire suppression, or upon a determination that specific expenditures of such funds were both unreasonable and excessive, the Secretary, not later than 30 days after receiving the audit of the Inspector General, shall reimburse the Treasury, out of unobligated balances for the Forest Service for the fiscal year in which the fund was provided.

Essentially, we are doing an audit. If there is any misuse of funds, if they are used for anything other than fire suppression, then the Forest Service in the Department of Agriculture shall essentially take those funds out of their hide and deal with the situation that way.

That is the first part of the amendment.

The second part of the amendment that I am offering is entitled, “Community Protection And Burned Area Restoration.” It says, in general:

During fiscal years 2004 through 2008, the Secretaries [the Secretary of Agriculture who has jurisdiction over the Forest Service and the Secretary of the Interior] shall carry out a joint program to reduce the risk of wildfire to structures and restore burned areas on non-Federal lands, including country-owned lands, tribal lands, nonindustrial private lands, and State lands, using the authorities available pursuant to this section, the National Fire Plan and the Emergency Watershed Protection Program.

We are talking about funds to do restoration work on land that the Federal Government doesn’t own.

The second part of this talks about cost share grants. It says:

In implementing this section, the Secretaries may make cost-share grants to Indian tribes, local fire districts, municipalities, homeowner associations, and counties, to move, transport, and dispose of hazardous fuels on non-Federal lands. The grants shall be in such amounts as the Secretaries shall determine, to: (1) prevent structural damage as a result of wildfire, or (2) to restore or rehabilitate burned areas on non-Federal lands.

This is still on non-Federal lands. It says the non-Federal contribution may be in the form of cash or in-kind contribution, and then it authorizes the appropriation of $100 million in each of those years, 2004 through 2008, to do their work, to make these grants, to help these non-Federal agencies and entities deal with the problems.

Much of the fire we have seen on television in recent days is, in fact, not on Federal land. They are desperately in need of assistance from the Bastard Government. This is assistance that would be of that type and should be in place every year.

I will go through a more complete description of the amendment. The amendment does add two new sections to the existing legislation. A new authority and actual resources to protect communities at risk from unnaturally intense catastrophic wildfire. If we are not going to add real resources as part of this bill, we are, in fact, making a false promise to the American people. We can give all the speeches about how we are going to pass the bill, the President is going to sign it, everything is going to be rosy, the clouds are clearing, and we are going to be in the sunny uplands—the broad sunny uplands, is the way Churchill said it.

The reality is, if we do not provide resources to help, it is a false promise. This amendment does try to help provide those resources.

The first part of the amendment allows the Forest Service to borrow funds from the Treasury to pay for firefighting during the years in which available funds do not cover costs. Someone might say that is a pretty rare occasion, a year when the funds available do not cover the cost. Let me cite the last 3 years: 2001, 2002, and 2003. Forest Service firefighting funding.

We have two columns on my chart: The President’s request, what was actually appropriated, and what was actually spent, what we wound up spending out of Federal Government funds to deal with this problem.

In 2001, at the request of the President we appropriated the budget he sent us of $291 million. Fortunately, through the good offices of Senator Boxer, the Appropriations Committee, and the Senate, we appropriated a little over $290 million for firefighting in 2001. In fact, we appropriated a little more than what the President asked for, but it is getting close.

The amount that was actually needed was $320 million. We spent by the Forest Service of funds less than he asked for, $321 million. What was actually needed was $1.21 billion. So we missed it by a little—we were more than $200 million short of what the Forest Service actually had to spend for firefighting in that year.

In 2002, the President asked for more. He said $291 million was not enough, how about $325 million. That is for the whole country. He said, $325 million ought to be plenty for the whole country. In fact, we appropriated a little less than he asked for, $321 million. What was actually needed was $1.21 billion. So we missed it by not quite $1 billion. That is $1 billion that was spent by the Forest Service of funds not appropriated to them for this firefighting activity.

In 2003, which we just finished, the President said we need $421 million. The Appropriations Committee said no; let’s make it $418 million. We spent over $1 billion—$1.02 billion. There is a shortfall each year. It is a question of whether the shortfall is $1 billion, a couple hundred million, but every year we have done this. At least since this President has been in town, we have seen a significant shortfall. What I am trying to do is begin to address that problem.

The reality is, if we do not provide resources to help, it is a false promise. This amendment does try to help provide those resources.

What they have to do when they shift the money out of these accounts, they have to put that forest thinning or forest restoration projects because they cannot afford it. They are too busy fighting fires. We need the money to fight fires. We have cause them to do that every year.

A similar problem exists in many other States. I will indicate a few of those, States that have a great interest in the problem and deal with that.

There are many examples I will cite of the problem we are dealing with. In my home State of New Mexico, we have a publication, a 1-page sheet the Forest Service issued called “Effects of Transferring Money to Fire Suppression.” That is what this chart is reflecting. In 2001, $683 million was transferred to fire suppression, to firefighting. This was issued in April by the Forest Service with regard to New Mexico. It says the 2002 fire season was intense. The cost of suppressing these fires was nearly $683 million. The Forest Service transferred $1 billion from other discretionary and mandatory accounts to defray fire suppression costs. Over $55 million was borrowed from national forests in Arizona and New Mexico. Some critical projects in New Mexico were postponed for up to 1 year as a result of fire borrowing. These included wildland/urban interface fuels projects, in the Carson National Forest, in the Gila National Forest, in the Lincoln National Forest, in the Santa Fe National Forest; a contract for construction of a fuel break around the community at risk in the Chilona National Forest was postponed for 6 months.

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that resulted, including canceled prescribed burns, thinning projects, timber sales, evasive weed control programs, and emergency burned area rehabilitation projects.

The consequences are felt beyond dangerous forest conditions and they range from the postponement of dam safety inspection to the inability to finalize a tribal energy development agreement.

I have already given examples from my State of New Mexico. In Idaho, spring burning projects in the Nez Perce National Forest were postponed. A brush-cutting project in Clearwater National Forest could not be completed.

In Montana, a hazardous fuels reduction project in the wildland/urban interface of the Bitter Root National Forest was postponed and slated for possible cancellation.

In Oregon, watershed assessments and projects associated with the Biscuit Fire were delayed. Numerous timber sales and wildland/urban interface thinning work was postponed.

In Washington, white pine blister rust thinning and pruning projects were deferred.

In California, nearly $6 million was transferred out of fire health vegetation management and ecological restoration accounts in 2003, resulting in having to withdraw stewardship contracts for funds to fight fires. These include projects in all of these national forests I have mentioned.

In February 2003, the Missoulian, which I understand is a Montana newspaper—I assume in Missoula—reported that because of fire borrowing, Montana and the forest lost about $80 million, including $25 million intended for the repair and replanting of forests burned two years earlier on the Bitterroot National Forest.

Moreover, as evidenced last year by a $200 million supplemental appropriation, funds reduction projects were postponed for up to a year, last year, as a result of borrowing to fight fires. These include projects in many of these national forests I have mentioned.

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funding, notwithstanding the clearly identified demand for these programs. We hear that demand from communities in all of our States where forest fires have burned in excess in recent years.

This provision, this amendment that I am offering, will also provide actual dollars to restore the burned areas on non-Federal lands. After a fire is extinguished, communities often face equally hazardous threats from landslides and flooding. There has been very little attention to that as yet because the fires continue to burn in California. But once those fires are out, we will start hearing about flooding and landslides. There needs to be assistance to deal with that as well.

In creating the national parklands 3 years ago, Congress provided $142 million for burned area restoration and rehabilitation. Nonetheless, in its fiscal year 2002 budget request, the Administration requested $82 million—only $52 million—for burned area restoration and rehabilitation. In fiscal year 2004, they requested no funds for this account.

The amendment I am offering will provide funds for urgent community needs for activities such as soil stabilization after fires occur. The question we are faced with today is: Are we going to legislate solutions that will really make a difference on the ground?

I very much appreciate the provision in the Cochran amendment that authorizes $760 million, but as we all know, authorizing a certain level of funding in the Congress is not an adequate solution. In fact, agency officials tell me under current law there is no ceiling on the amount of money that could be appropriated to address this problem. Providing actual dollars, as my amendment does, clearly is part of the solution.

I urge my colleagues to support both sections of this amendment. This is an important issue. I believe that if we pass it, then, without dealing with both of these issues—the borrowing problem and the problem of not providing funds for work on non-Federal lands—we will be falling far short of where we should be.

I urge my colleagues to support the amendment.

I ask unanimous consent that Senator REID of Nevada be added as a co-sponsor of the amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. BINGAMAN. I yield the floor.

Mr. BINGAMAN. I yield the floor.

Mr. COCHRAN, Mr. President, after looking at this amendment, I see it clearly increases mandatory spending and, if adopted, would cause the underlying bill to exceed the committee’s section 302(a) allocation. Therefore, I raise a point of order against the amendment pursuant to section 302(f) of the Congressional Budget Act of 1974.

Mr. REID, Mr. President, I ask that the applicable sections of the Budget Act be waived.

The PRESIDING OFFICER. Is the Senator making a motion?

Mr. REID, I am.

Mr. COCHRAN. I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, let me speak very briefly to the amendment of the Senator from New Mexico. I will be very brief. So you raise a very important point.

Mr. WYDEN. I ask unanimous consent to be recognized very briefly after Senator CRAIG before we go to a vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I will be brief. The Senator from New Mexico makes eminently good sense. There is no question that we have a funding problem. I have spoken with the Assistant Secretary and the Chief. I chair the Forestry Subcommittee and the committee on which the Senator is the ranking member. What I am suggesting we do—because the motion that has just been made in this budget point of order is an appropriate one—is to reexamine the whole funding mechanism of the Forest Service. Your figures are accurate. The kinds of programs that go unfunded now, that would help to begin to correct our forest health problem that is in part driving these fires, is a very real question.

As you know, the Forest Service used to have a cash cow. We called it logging. Those revenues flowed in, and money moved around from different accounts. You could borrow, as we did during fire seasons, and they got repaid. It was a very important point. But it is a point that we need to totally reexamine. To actually allow the Forest Service to borrow from the Treasury without going through the appropriating process, in my opinion, doesn’t really give us the kind of fiscal control and responsibility we all ought to have.

Certainly as ranking member of the authorizing committee and as a member of the authorizing committee myself, you and I, on an annual basis, ought to aggressively look at this budget, knowing that we have fallen far short, and deal with it in an appropriate way. But we have not done that. You recognized, appropriately, the Senator from Montana, who chairs the Subcommittee, and the appropriations, funds to this, and others. We ought to get at it in an aggressive way. I have already tasked the Assistant Secretary and the Chief to look at a variety of mechanisms that fit the funding shortfalls that we need to create the new mechanisms necessary. But I don’t believe that direct ability to borrow from the U.S. Treasury by an agency itself, without the authority of the authorizing committee and the appropriators, is an approach we ought to undertake at this time. It is, however, an issue whose time has come, and we ought to deal with it in the appropriate fashion.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have already indicated I want to make sure the compromise we voted on yesterday does not unravel. I will support the amendment of the Senator from New Mexico because I believe it will allow us to go forward and make sure the work that the bipartisan group did is not in vain.

The bottom line is very simple: To get the money to put the fires out, fire prevention, you spend it and steal from every single Forest Service program around and then hope that at some point down the road you are going to get repaid. It makes a mockery out of any effort to responsibly budget in this area. In our part of the world, we see, in effect, funds robbed from nonprofit organizations such as Wallowa Resources, a small nonprofit in eastern Oregon.

My only concern about putting this off is that if we don’t deal with this issue now, the question is, When will we deal with it? This is an extraordinarily important question. It will not, in my view, unravel the compromise which I will fight like crazy to protect, despite the fact that I think what the Senator from Mississippi and the Senator from Idaho have said has considerable validity as well.

I hope we will support this amendment and then figure out in the course of the floor amendments in which we can find some common ground on this issue. Today the process of just stealing from every program around to fight fires really becomes almost farcical. The Bingaman amendment responds to that. I hope my colleagues will support it.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me briefly respond. I know the point of order has been made. A motion has been made to waive the Budget Act.

First, I ask unanimous consent to add Senator CANTWELL as a co-sponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I appreciate the good intent of my friend from Idaho in saying that this is something on which we ought to start working or on which we ought to work. The reality is, this is our last chance. This legislation is unlikely to go beyond the President. It could be signed into law in some form. If we don’t take the opportunity this legislation presents to fix this problem, it
The PRESIDING OFFICER. The question is on agreeing to the motion. 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. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are absent attending a family funeral.

I also announce that the Senator from Nebraska (Mr. NELSON) is 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 36, nays 60, as follows:

[ Rolls call Vote No. 423 Leg.J.]

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NOT VOTING—4

Edwards Lieberman
Kerry Nelson (NE)

The PRESIDING OFFICER. On this vote, the yeas are 36, the are nays 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is defeated. The point of order is sustained and the amendment fails.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I would like to ask how long that vote took.

The PRESIDING OFFICER. Twenty-nine minutes.

Mr. REID. Mr. President, I don't know what more we can do here. I want everyone to know we are doing our best over here to move these amendments. We have a lot of them over here. We are trying to move them. We can't do it if we waste a lot of time on these votes. I want everyone within the Whip's group to vote and let me know when we cannot finish the bill if these votes take 30 or 40 minutes. Everyone should understand that.

There are going to be people coming and asking: When can we leave? I have a plane. Are we going to have votes tomorrow? We will have votes for days, the way this is going. We cannot finish this bill tonight with these votes taking as long as they are taking. I am disappointed, frankly, that the majority leader wasn't here to terminate the first vote. If we limit votes to 20 minutes, people would stop straggling in. It is not fair to the Senate.

Mr. COCHRAN. Mr. President, the Senator from Nevada is exactly correct in the fact that we are going to have to have more cooperation to move this bill along. We agreed before this vote that we could cut off votes after 20 minutes. We had the endorsement of that by the majority leader. But because Senators were on their way to vote and people told us they were on their way to vote, the vote dragged out longer than that.

I hope Senators will cooperate with the managers of the bill and leadership and let's call here and vote when the buzzer sounds and not wait until the last minute. These votes are going to be cut short. I hope everyone will cooperate with us.

Mr. REID. Mr. President, with the understanding of the manager of this bill, I ask unanimous consent that the Senator from Montana, Mr. BAUCUS, be recognized for 15 minutes to speak on the bill and whatever else he wishes to speak on; further, the Senator from New Mexico, Mr. BAUCUS, who still has more amendments to offer the bill, be recognized for another 15 minutes for other purposes that he wishes to be recognized to offer the next amendment. The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I thank my friend, the Senator from Nevada, and the managers of the bill for their accommodation.

It is vital that we pass this legislation this year.

Montana recently suffered from devastating wildfires, as have other western States. As the Senator from California, Senator FEINSTEIN pointed out repeatedly, the current news from Southern California is a shameful reminder of a very large problem.

Across this country forests are threatened by insects, disease and the build up of hazardous fuels. The impact of these conditions are real. And they play out after a year, fueling large fires that destroy lives and homes, diminish water and air quality, and destroy wildlife habitat.
The cost of containing these large fires is staggering, straining State and Federal budgets and devastating local economies. There are many reasons for the situation we are in today, ranging from weather and natural cycles to urban sprawl and the fire suppression policies of the past. We can’t do anything to change the weather and we certainly can’t change the past, but we can use today’s knowledge and the wisdom of our experience to do better.

Neglecting the problem is not the answer; nor is more talk. We have to try a new approach. The compromise healthy forests bill is not perfect, but I believe it offers options to more efficiently address our forest health problems and the consequences they have on real people. I also believe this bill will help put people in rural communities back to work in the woods, especially in my State of Montana.

I have read over and over again that a healthy forests bill must first allow federal agencies and communities to address dangerous fuel loadings on a local level, quickly and efficiently. Second, it must support small, independent local people to work in the forests and the mills. Third, it must promote and protect citizen involvement and be fair to the principles underlying the federal judicial system. And finally, it must protect and enhance sensitive places like wilderness areas.

I think we have achieved that with this legislation.

People impacted by forest health problems don’t belong to just one political party. This is a problem that requires all sides to work together. I would like to commend the tremendous efforts of my Democratic and Republican colleagues, including Senators FEINSTEIN, WYDEN, CORKER, MURkowski, MCCAIN and LINCOLN, who along with several other Senators and myself worked very hard to put together the compromise on healthy forests that I am proud to support and co-sponsor.

This was no small feat; this bill touches on some very divisive issues that I wasn’t sure we would ever find a way to solve. But, we did and that is why we are here today having a serious conversation about actually passing a bill.

I believe the compromise healthy forest bill is responsive to our need to more efficiently reduce the threat of wildfire while ensuring adequate environmental protections, citizen participation, and an independent judiciary.

There is nothing in this legislation that undermines existing environmental laws, or a person’s ability to be involved in decisions that impact their public lands. In fact, this legislation requires citizen collaboration beyond existing law—current law does not require the secretary to encourage citizen collaboration or to hold a public meeting on proposed projects.

What I believe this legislation does do is help keep the process open and honest. I ask unanimous consent that an article for today’s Missoulian newspaper, from Missoula, MT, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS FILE LAWSUIT OVER KOOTENAI FOREST TIMBER SALE
(By Sherry Devlin)

HARVEST THREATENS WATER, ENVIRONMENTALISTS ARGUE

Environmentalists filed another lawsuit against the Kootenai National Forest on Tuesday, hoping to stop a 12.5 million board-foot timber sale which they believe would pollute an already degraded stream.

At almost the same time, not knowing a lawsuit had been filed, the Forest Service awarded a contract for the Garver timber sale to Riley Creek Lumber Co.—which bid $1.3 million over the advertised price of $230,000.

Filed by Alliance for the Wild Rockies and The Lands Council, the complaint seeks to stop the Garver sale on grounds it violates Clean Water Act permitting for species that depend on old-growth trees.

The groups used a similar lawsuit to stop the Lolo National Forest from logging in areas burned by wildfires during the summer of 2000.

In that case, environmentalists successfully argued the sale would degrade water quality in streams identified as “water-quality impaired” by the state of Montana.

Until the state of Montana sets “total maximum daily load” figures for the streams, the Forest Service cannot adequately judge how much additional sediment the streams carry, the lawsuit said.

Federal District Judge Don Molloy agreed, shutting down all post-burn logging until TMDL figures are available.

In the Garver sale, the at-risk stream is the West Fork of the Yaak River, which is also listed as water-quality impaired.

Logging caused the West Fork’s problems, and more logging will make them worse, said Michael Garrity, executive director of Alliance for the Wild Rockies.

“It is exactly the same issue as in the Lolo,” Garrity said. “Instead of wasting the court’s time and money, the Kootenai should just follow the judge’s ruling.”

(The Forest Service has appealed Molloy’s decision to the 9th Circuit Court of Appeals.)

At Kootenai forest headquarters, Supervisor Bob Castaneda did not know a lawsuit had been filed until contacted by the Missoulian. He quickly and vigorously defended his staff, which had just awarded the Garver timber sale to Riley Creek Lumber Co.—which bid $1.3 million over the advertised price of $230,000.

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issues—like old growth—earlier in the process, without wondering what might be coming at them from left field. This is a good example of why the compromise bill will have real, positive impacts on the ground.

Keeping Montana’s small timber mills and forest workers in business is a top priority for me because of their importance to rural economies. But, the fact, is we also need this industry to accomplish the hazardous fuel reduction work on the ground.

I worked in committee to ensure this legislation provides support for building a thriving forest industry in rural communities. In particular, I worked with Senators CRAPP and LEAHY to develop the Rural Community Forestry Enterprise Program, included in Title VII of the bill. The Rural Community Forestry Enterprise Program, is intended to give a much needed economic boost to small businesses and small rural communities, particularly those in Montana that have been hit hard in recent years.

The Program would establish forest enterprise centers around the country, including one in Montana, that would do the following: Ensure that the Small Business Administration timber set-aside program works better for Montana and other small mills; enhance technical and business management skills training; organize cooperatives, marketing programs, and worker skill pools; facilitate technology transfer for processing small diameter trees and brush into useful products; and enhance the rural forest business infrastructure needed for a fuel reduction program on both private and public lands.

Keeping small mills in Montana in operation is a top priority for me. These businesses are vitally important to rural economies, providing good-paying jobs and revenue to local communities. I support this legislation because I believe we do have a serious problem with hazardous fuel build-up in our National Forests that we must solve sooner rather than later.

I also believe the bi-partisan Healthy Forests bill has the elements necessary to allow local citizens and leaders to make wise decisions that address this problem effectively and, I hope, permanently. We need to pass this bill.

This is not a problem that we will solve overnight, or even in the next few years. But, we have to start somewhere, and this is a great place to start.

I am proud to support this compromise. I ask all of my colleagues to take a bold step and support it as well.

Mr. COCHRAN. Mr. President, I ask unanimous consent that, notwith standing the previous entry, the distinguished Senator from Maine be recognized up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine, Ms. COLLINS.

Ms. COLLINS. Mr. President, I thank the Senator from Mississippi for his courtesy and also for the extraordinary job he has done in bringing together people of diverse views on this critical issue of forest management. I also thank the Senator from New Mexico for agreeing to let me deliver my comments before he offers his amendment.

The report of our Nation’s forests is vital to preventing the highly destructive forest fires that we are seeing plaguing the West and also to protecting our ecosystems. I am very pleased the Senate is moving forward with this issue which I know matters greatly to the Presiding Officer as well.

No discussion of a responsible forest management system would be complete, however, without addressing another threat to our Nation’s working forests and open spaces; that is, suburban sprawl. Sprawl threatens our environment and our quality of life. It destroys ecosystems and increases the risks of flooding and other environmental problems. In the infrastructure of the affected communities, increases traffic on neighborhood streets, and wastes taxpayer money. It leads to the fragmentation of wood lots, reducing the economic viability of the remaining forests.

Sprawl occurs because the immediate economic value of forests or farmland cannot compete with the immediate economic value of developed land in the areas that are experiencing rapid growth.

No State is immune from the dangers of sprawl. For example, the Virginia State Forester says that since 1992 the Commonwealth of Virginia has lost 54,000 acres of forest land per year to urban uses. The Southeastern Michigan Council of Governments recently reported that southeastern Michigan saw a 17-percent increase in developed land between 1990 and 2000.

In my home State of Maine, suburban sprawl has consumed tens of thousands of acres of forest land. The problem is particularly acute in southern Maine where a 108-percent increase in urbanized land over the past two decades has resulted in the labeling of the greater Portland area as the “sprawl capital of the Northeast.”

I am particularly alarmed by the amount of working forest and open space in southern and coastal Maine that has given way to strip malls and cul-de-sacs, working farms, and meadows are lost to development, they are lost forever. Maine is trying to respond to this challenge. The people of my State have approved a $50 million bond to preserve land through the Land For Maine’s Future Program, and they contribute their time and their money to preserve important parcels and to support our State’s 88 land trusts. It is time for the Federal Government to help support these local community-based efforts.

For these reasons, I will be offering an amendment, along with Senator HARKIN, that establishes a $50 million grant program, the Suburban and Community Forestry and Open Space Program, within the U.S. Forest Service, to support locally driven, market-based land conservation projects that will preserve our working forests and farms.

Locally driven and market based are the essential aspects of this program. This program is locally driven because it encourages communities and non-profit organizations to work together with landowners to help promote sustainable forestry and open space. The program will allow local governments and nonprofits to compete for funds and hold title to land or easements purchased with programmed funds. Projects funded over this initiative must be located at lands located in parts of the country that are threatened by sprawl. In addition, the legislation requires that Federal grant bonds be matched dollar for dollar by State, local, or private resources.

This program is market driven because it relies upon market forces rather than government regulations to achieve its objectives. Rather than preserving our working forests and open spaces by zoning development regulation at the expense of the landowner, this program will provide the resources to allow a landowner who wishes to keep his or her land as a working farm or wood lot to do so.

The legislation also protects the rights of property owners with the inclusion of a “willing seller” provision that will require the consent of a landowner if a parcel of land is to participate in the program. The $50 million that would be authorized would help achieve a number of stewardship objectives. First, the amendment would help prevent forest fragmentation and preserve working forests, helping to maintain the supply of timber that fuels Maine’s most significant industry. Second, the resources would be a valuable tool for communities that are struggling to manage growth and to prevent sprawl. Finally, if a town, sub-division, or another community is trying to cope with the effects of sprawl and turns to the Federal Government for assistance, they would find there is no program. My proposal would change that by making the Federal Government an active partner in preserving forest land and managing sprawl, while leaving decision-making at the State and local level where it belongs.

The work that is being done in Maine and in other States to protect our working forests for future generations is of vital importance to the future of our Nation’s forests.

I am particularly alarmed by the amount of working forest and open space in southern and coastal Maine that has given way to strip malls and cul-de-sacs, working farms, and meadows are lost to development, they are lost forever. Maine is trying to respond to this challenge. The people of my State have approved a $50 million bond to preserve land through the Land For Maine’s Future Program, and they contribute their time and their money to preserve important parcels and to support our State’s 88 land trusts. It is time for the Federal Government to help support these local community-based efforts.

For these reasons, I will be offering an amendment, along with Senator HARKIN, that establishes a $50 million grant program, the Suburban and Community Forestry and Open Space Program, within the U.S. Forest Service, to support locally driven, market-based land conservation projects that will preserve our working forests and farms.
provide a real boost to conservation initiatives, help prevent sprawl, preserve special open places, forest lands, and farms, and help sustain natural resource-based industries.

I thank Senator COCHRAN in particular for his assistance on this legislation. It is always a great pleasure to work with him. I hope this proposal will be incorporated into the final bill.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Maine for her contribution to the legislation we have before us today. She has been a leader in this effort, and we always appreciate the opportunity of working with her. I thank her for her kind comments as well.

The PRESIDING OFFICER. The Senator from New Mexico.

Amendment No. 2035

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. BINGAMAN) proposes an amendment numbered 2035.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as follows:

(Purpose: To require the treatment of slash and other long term fuels management for hazardous fuels reduction projects)

At the appropriate place, insert the following new section:

SEC. 6. LONG-TERM FUEL MANAGEMENT.

In implementing hazardous fuels reduction projects, the Secretaries shall ensure that—

(1) a slash treatment plan is completed;

(2) all phases of a multi-year project such as thinning, slash reduction, and prescribed burning are completed; and

(3) a system to track the budgeting and implementation of follow-up treatments shall be used to account for the long-term maintenance of areas managed to reduce hazardous fuels.

Mr. BINGAMAN. Mr. President, this amendment deals with the issue of the treatment of long-term fuel management and treating what is called slash. Many fuel reduction projects require two or more sequential treatments over several years on the same parcel of land—for example, an initial timber harvest, followed by the piling and burning of slash, which is, obviously, the brush and trees that have been cut down.

Completing these followup slash treatments in a timely manner is a very important part of forest restoration work. It is important because the slash provides fuel for wildfires, and it provides habitat for beetles and other insects.

I think we have some studies that demonstrate the insect disease problem expands where this slash is not properly treated. Everyone agrees it is important to conduct these followup treatments in locations where fuel reduction projects have been completed in order to prevent the area from returning to the condition that puts these locations at high risk of unnaturally intense catastrophic wildfire.

There is a recent GAO analysis in my State that found the Forest Service and the BLM completed about only 19 of 39 followup slash treatments in a timely manner.

In addition, the GAO found the agencies’ reported figures for the acres treated were inflated because they had double-counted acres where the same acreage was treated in multyear phases. Where you have this kind of a slash treatment necessary, we are getting inaccurate accounting by the Forest Service and by the BLM.

This is troubling because it means the Forest Service and the BLM are providing inaccurate data with respect to the number of acres on which this fire threat is actually being addressed. My amendment tries to ensure there is accurate accounting. In my view, it is a simple and straightforward amendment. It should be uncontroversial. It is a minor matter in the eyes of some, but the Forest Service’s failure to properly manage this slash treatment has worsened the fire risk in some areas. Obviously, the focus of this legislation is to reduce that fire risk.

I think it is an appropriate amendment. I hope this is something the managers of the bill could accept. If not, obviously we can have a vote on it. Let me just briefly describe the amendment in a little more detail and essentially read it. It says:

In implementing hazardous fuels reduction projects, the Secretaries—

That is the Secretary of Agriculture and the Secretary of the Interior—shall ensure that—

a slash treatment plan is completed; acres are not identified as treated, in annual program accomplishment reports, until all phases of a multi-year project such as thinning, slash reduction, and prescribed burning are completed; and

a system to track the budgeting and implementation of follow-up treatments shall be used to account for the long-term maintenance of areas managed to reduce hazardous fuels.

Mr. BINGAMAN. Mr. President, let me just say that I think this amendment is anything but a prescription for gridlock. There is the suggestion that all sorts of new program accomplishments are going to be required. Those reports are currently produced. And the real issue is, do we get proper accounting in those reports or do we not? The GAO has told us we do not. Each year they give us an accomplishment report, and they list acreage on which they have not completed the forest restoration work. They have done one of the phases of that forest restoration work, and then the next year they take credit for that acreage again by doing another phase. The next year they take credit for that acreage again by doing another phase. All we are saying is that acres should not be identified as having been treated in these annual reports, which are already provided, until they have done all of the different phases—the thinning, slash reduction, and the prescribed burning.

We are not requiring additional reports. We are requiring accurate reports. That is not an unreasonable request.

I am somewhat disappointed. This is an amendment we delivered to the managers of the bill yesterday, to their...
staff. We asked them to review it, to give us suggestions. If they had problems with any aspect of it, they did not get back to us, except to say it is unacceptable. That seems to be the position they are taking with regard to any and all suggested amendments to the bill.

This is intended as a constructive amendment. I see it as a constructive amendment to deal with a specific problem that the GAO has identified as existing with regard to management of the long-term fuel supply.

With that, I yield the floor.

Mr. COCHRAN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 2035. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. NELSON) is absent attending to personal business.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay." The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—58

Alexander Dole Miller
Allard Ensign Murkowski
Allen Enzi Nickles
Baucus Feinstein Pryor
Bennett Fitzgerald Roberts
Bond Frist Santorum
Bridgehampton Graham (SC) Sessions
Brownback Grassley Shelby
Byrd Hagel Smith
Burns Hatch Specter
Campbell Chafee Stevens
Chambliss Inhofe Thurmond
Cooper Inouye Simpson
Cooper Lieberman Smith
Craig Lincoln Snowe
DeWine McCain Warner

NAYS—36

Akaka Dayton Lautenberg
Bayh Dodd Leahy
Biden Dorgan Levin
Bingaman Durbin Mikulski
Boxer Feingold Murray
Byrd Graham (FL) Nelson (FL)
Cantwell Harkin Reed
Casper Inouye Reid
Clinton Jeffords Rockefeller
Conrad Johnson Sinema
Corzine Kennedy Schumer
Daschle Kohl Stabenow

The motion was agreed to. Mr. COCHRAN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2036

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. BINGAMAN) proposes an amendment numbered 2036.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require collaborative monitoring of forest health projects)

At the appropriate place, insert the following new section:

"SEC. COLLABORATIVE MONITORING.

(a) IN GENERAL.—The Secretaries shall establish a collaborative monitoring, evaluation and accountability process in order to assess the positive or negative ecological and social effects of a representative sampling of projects implemented pursuant to title I and section 404 of this Act. The Secretaries shall include stakeholders, including interested citizens and Indian tribes, in the monitoring and evaluation process.

(b) MEANS.—The Secretaries may collect monitoring data using cooperative agreements, grants or contracts with small or micro-businesses, cooperatives, non-profit organizations, Youth Conservation Corps work crews, or Indian tribes, in the monitoring and evaluation process.

(c) FUNDS.—Funds to implement this section shall be derived from hazardous fuels operations funds."

Mr. BINGAMAN. Mr. President, this amendment requires the Forest Service and the Bureau of Land Management to establish a collaborative monitoring process in order to assess the environmental and social effects of a representative sampling of projects implemented under this act. There are many forest-dependent communities that support collaborative monitoring of forest projects on public land. This simply means it is collaborative monitoring. That phrase simply means that interested communities and individuals may participate with Federal agencies in monitoring the ecological and social effects of forest health projects.

Proponents of the legislation that we are considering today continually state that they want more collaboration at the beginning of the process. However, unless there is collaborative monitoring of the effects of the projects, we will never be able to rebuild trust between rural communities and these agencies.

Congress enacted a similar requirement when authorizing the Stewardship Contracting Program. In addition, Senator CRAIG and I sponsored the community-based Forest and Public Land Restoration Act. That bill, which was passed by the Senate unanimously, also required collaborative monitoring. This is a simple amendment. I believe it is noncontroversial. I hope this is acceptable to the managers of the bill and can be adopted.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from New Mexico for this suggested change to the bill. It actually could be argued it is duplicative of a provision that is already in the bill at the request of Senator WYDEN and Senator FEINSTEIN, but it is not wholly inconsistent. We think it can be worked into the bill and will not cause confusion, so I am prepared to recommend that the Senate accept the amendment. I hope Senate will vote for the amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, just very briefly. Chairman COCHRAN has it right. If we are going to accomplish in the natural resources area, it is to try to move this bill away from confrontation to collaboration. That is what we tried to do in the bipartisan compromise. I think it is a good idea and I think it will not cause confusion, so I am prepared to support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 2036) was agreed to.

AMENDMENT NO. 2039

Mr. LEAHY. Mr. President, I am soon going to send to the desk an amendment.

The people of my State of Vermont, and Americans across the Nation, mourn with our colleagues, Senator FEINSTEIN and Senator BOXER, and with the people of California, over the tragic loss of life and property from the wildfires in San Diego County.

Today, we lost a firefighter from Novato, CA. These brave men and women on the front lines need to be recognized first in this debate. Our hearts go out to the firefighters’ families and communities.

We have all been riveted by the vivid images we have watched, day after day, and by the heart-wrenching stories of loss and of bravery that go with these pictures.

Our hearts go out to all of these families that have lost so much. And our thanks go out to the courageous and diligent firefighters and emergency response team members who are fighting those fires and are doing all they can to protect these communities.

Here in Congress, we need to do more to protect forests and communities from wildfires. That is why I introduced the Forest and Community
Protection Act this summer. This is a bill and an approach that would make a real difference for communities facing this kind of potential devastation. The bill before us now, unfortunately, would not offer the same level of help.

The bill before us is a well-camouflaged attempt to limit the right of the American people to know and to question what their government is doing on the public’s lands. What you look at the tidal wave of regulatory changes the administration has produced in the last year to cut the public out of the process, it could not be clearer that the administration does not want the public or the independent judiciary looking over its shoulder.

Communities that face wildfire threats need real help, not false promises. As this chart shows, the administration has been busy creating a broader number of projects that will be excluded from environmental analysis under the National Environmental Policy Act, limiting how, who and when citizens can appeal agency decisions, and even cutting out other agencies, such as the Fish and Wildlife Service, from the Forest Service’s efforts on the impact of the actions on endangered species habitats.

Unfortunately, the bill before us today could be the last in this series of steps that completely erode the public’s trust of the Forest Service. Many of us saw the aftermath of the salvage rider on our forests and the public trust. We should not go down that road again.

That is why I am offering an amendment today, along with Senators Bingaman, Durbin, Harkin and Boxer, to strike sections 105 and 106 of the bill. These sections go too far in undermining the decades of progress we have made in public participation and judicial review.

The administration has worked overtime to try to sell the false idea that environmental laws, administrative appeals and the judicial process are the cause of wildfires. But they have not been able to back up their scapegoating with facts. And the facts themselves contradict their claims.

In May, the GAO issued a study examining delays in all Forest Service fuels reduction projects, from appeals or litigation, during the last 2 fiscal years.

Contrary to what some advocates of this bill will tell you, the results show that neither appeals nor litigation have delayed fuels reduction projects. As you can see, out of 818 projects, only a quarter were appealed. Of those, even fewer took more than the standard 90-day review period. In fact, only 5 percent of all the projects took more than 90 days.

And they can’t honestly blame litigation, either, for the delays. Again, of the 818 projects, only 25 were litigated. Of those, 10 were either settled or ruled in favor of the Forest Service—meaning that only 9 out of 818 projects were delayed by court order.

That is only one percent. Where is the “analysis paralysis” my colleagues like to talk about so much?

On the ground, these appeals had even less effect. Of the 111,000 acres covered by fuel reduction projects, only 3 percent are litigated.

The numbers simply do not back up the administration’s assertion that appeals and litigation are delaying projects.

The bill before us today rolls back environmental protections and citizen rights with no justification at all. Enough about numbers. The bill before us is really a solution looking for a problem. So let’s take a closer look at the solution on the table.

First, the bill would make it much more difficult for the public to have any oversight or say in what happens on public lands, undermining decades of progress in public inclusion.

In this new and vague pre-decisional protest process, this bill expects the public to have intimate knowledge of aspects of the project early on, including aspects that the Forest Service might not have disclosed in its initial proposal.

Section 105 gives the Forest Service a real incentive to hide the ball or to withhold certain information about a project that might make it objectionable such as endangered species habitat data, watershed analysis or road-build information.

If concerns are not raised about this possibly undisclosed information in the vaguely outlined predecisional process, the Forest Service can argue to the courts that no claims can be brought on these issues in the future when the agency either through intent or negligence withheld important information from the public.

I want to take a couple of minutes to respond to the statements of my colleagues that my colleagues have made over the last 2 days with regard to appeals and judicial review.

First, my colleagues keep talking about “analysis paralysis.” This has become a mantra for those who want to cut the public out of decision-making and blame appeals and litigation.

When the administration went looking for a problem to fit their solution of cutting out appeals and judicial review, they came up with analysis paralysis.

When they went looking for facts to back up this new mantra, they threw together a Forest Service report that argued that 48 percent of decisions were appealed. But when people starting asking questions about the report though, they found that the Forest Service spent just a few hours gathering information for the report. The so-called data it was based on was just phone conversations made in an afternoon.

In fact, the Forest Service did not actually track appeals. Until the GAO did its independent report, they really had no idea what impact appeals were having on fuel reduction projects.

But they, and many of my colleagues, already had their talking points. As we have seen with many other so-called environmental policies the administration presents, facts are never allowed to get in the way of rhetoric.

When the facts did start coming out this spring, with an independent study by Northern Arizona University and the GAO, they showed that only 3 percent of projects are appealed and only 3 percent are litigated.

The report also found that opposition was not a leading factor in slowing fuel reduction projects:

While the issue of formal public resistance, such as appeals and litigation, has recently been contentious, only a few local land unit officials we visited indicated that this type of resistance had delayed particular fuels reduction treatments.

What the facts do tell is that the main reasons fuel reduction projects could not proceed were due to the allow in the years of the fuel reduction funds to fight wildfires.

Just this summer, while the President was out in Oregon pushing this bill, the Forest Service was back here cutting fuel reduction projects because the House Republicans refused to pass emergency funding for fire suppression.

Let’s cut through the smokescreen and focus on the facts before leaping on board a solution that will let the administration pick and choose the millions of acres of forestland that we cut with little real public accountability.

This is not a problem of analysis paralysis but a problem of situation exaggeration.

Essentially, this provision penalizes citizens and rewards agency staff when the agency does not do its job in terms of basic investigation and information-sharing regarding a project.

The other significant change to judicial review is section 106. Even under the “compromise” version of H.R. 1904, the provisions will interfere with and overload judges’ schedules.

This section will force judges to reconsider preliminary injunctions every 60 days, whether or not circumstances warrant it.

In many ways, this provision could backfire on my colleagues’ goal of expediting judicial review. It will force judges to engage in otherwise unnecessary proceedings slowing their consideration of the very cases that H.R. 1904’s proponents want to fast track.

Moreover, taking the courts’ time to engage in this process will also divert scarce judicial resources away from other pending cases.

It is also likely to encourage more lawsuits. Requiring that injunctions be renewed every 60 days, whether needed or not, gives lawyers another bite at the apple. Something they often find hard to resist.

Instead of telling the courts when and how to conduct their business, we should instead be working to find a workable and effective approach to reducing wildfire risks.
This bill does not achieve that, but through sections 105 and 106, it instead poses a real risk to the checks and balances that the American people and their independent judiciary now have on government decisions affecting the public lands owned by the American people.

Sadly, this bill is just a Halloween trick on communities threatened by wildfires. It is not fair to rollback environmental laws, public oversight or judicial review under the guise of reacting to devastating wildfires.

It will do nothing to help or to prevent the kind of devastation that Southern California is facing. It is a special interest grab-bag shrouded behind a smokescreen.

Let us offer real help and real answers, and let us not allow fear to be used as a pretext for taking the public’s voice out of decisions affecting the public’s lands and for ceding more power to special interests.

I hope my colleagues will join me in striking these provisions.

AMENDMENT NO. 799
(Purpose: To remove certain provisions relating to administrative and judicial review)

Mr. LEAHY. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mrs. BOXER, Mr. HARKIN, Mr. BINGAMAN, and Mr. DURBIN, proposes an amendment number 799:

Strike sections 105 and 106.

Mr. COCHRAN. Mr. President, there has been considerable attention paid to the provisions of the House-passed bill which was referred to in our Committee on Agriculture. The version the House passed has the same provisions that would change substantially the judicial review and appeals provisions of current law. When we were looking at the bill in our committee, it was decided that while we didn’t disagree with the objectives of the House, we thought that there could be more appropriate language which would help ensure that litigation and appeals weren’t abused to the extent that they created impasses and gridlock in the process.

I have to give credit to the distinguished Senator from Oregon, Mr. WYDEN, and the distinguished Senator from California, Mrs. FEINSTEIN, for coming up with suggestions for changes that were included in this bill that is now before the Senate. It was included in the language of the compromise that we made to substantially change title I as it relates to the judicial review section of the bill.

Let me point out that it balances risk, which is what this is about. Looking at ramifications of approving or not approving a fuel reduction project can be explained by looking at certain examples from which we have learned. On the Kenai Peninsula in south-central Alaska, for instance, over 300,000 acres of forest have been lost to a spruce bark beetle infestation which we are told could have been avoided but was not because of litigation and appeals that were generated over the project’s proposal. The Dixie National Forest has 112,000 acres that have been devastated by the spruce bark beetle as well which could have been prevented with treatment but was slowed by the appeals and litigation in that situation.

Over the last 3 years, bark beetles have ravaged forests around Lake Arrowhead in the San Bernardino National Forest in southern California causing an 80-percent mortality rate and substantially increasing the fuel loads of that forest.

What I am afraid we are going to see if the Leahy amendment is approved is a reversal of efforts that we have made to come to a new approach which we think will improve forest help. We still have rigorous environmental safeguards in place, but the suggestions that courts do not bog down the process with endless appeals and litigation is one of the goals of this legislation. I don’t know if other Senators want to be heard on this amendment. But I would be prepared, after Senators have had an opportunity to express themselves, if they want to debate this issue, to move to table the Leahy amendment.

I move to table the Leahy amendment, and I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina [Mr. EDWARDS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Connecticut [Mr. LIEBERMAN] are necessarily absent.

I also announce that the Senator from Nebraska [Mr. NELSON] is absent attending a family funeral.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] would vote “nay.”

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 33, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—62

Alexander
Allen
Bougress
Bennett
Bond
Bosworth
Brownback
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Collins
Corzine
Crapo
Daschle
Dayton

NAYS—33

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Casey
Clampett
Clinton
Corker
Corzine

NOT VOTING—5

Edwards
Hollings

The motion was agreed to.

NOTICE
Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

PROGRAM

Mr. FRIST. For the information of all Senators, tomorrow the Senate will be in a period of morning business. There will be no rollcall votes during tomorrow’s session.

The hour is late, but it is well worth it. We completed action on both the Healthy Forests legislation today, and the Foreign Operations appropriations bill.

On Monday, we will debate the Iraq supplemental. However, that conference report will be agreed to without a vote. We will also consider the Interior appropriations conference report on Monday, and Members can expect a vote on that sometime between 5 p.m. and 6 p.m. We will have more to say tomorrow about the schedule.

I congratulate the managers of both bills that were completed today. It has been a very long and very productive day.

ADJOURNMENT UNTIL 10 A.M.
TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate
NOMINATIONS

Executive nominations received by the Senate October 30, 2003:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN M. CURRAN, 0000

To be colonel

THOMAS B. SWEENY, 0000

To be lieutenant colonel

ELLIS G. BROCKMAN, 0000

SHARALYN W. BROWN, 0000

KENNETH E. COGEE, 0000

PAUL J. FAMELI, 0000

DANIEL L. JOHNSON, 0000

FREDERICK N. KAWA, 0000

SARAH H. PERRY, 0000

DARBY L. BREY, 0000

LEON R. WILSON III, 0000

To be major

TODD K. ALSTON, 0000

CHERI L. ANDREWS, 0000

RALPH D. ARCHETTI, 0000

JACQUELINE BAEHLER, 0000

EARL E. BIRDSONG, 0000

JONATHAN D. BERRY, 0000

JOHN D. BEURY, 0000

CHRISTIA M. BLOOM, 0000

ROBERT E. BUZAN JR., 0000

KEITH BYRD, 0000

JESS H. CAPEL, 0000

ROGER D. CARSTENS, 0000

DONALD R. CECCONI, 0000

JOHN M. CREAN, 0000

GREGORY L. DEDEAUX, 0000

SONIA R. DEYAMPERT, 0000

ERIC P. EHRMANN, 0000

JOHN M. ESPOSITO III, 0000

ALAN L. GUNNERSON, 0000

JOSEPH J. HAYDON JR., 0000

DAVID E. HECKERT, 0000

CARL G. HERRMANN, 0000

TINA L. HOLT, 0000

JACQUELINE C. HOWELL, 0000

WILLIAM S. HUSING, 0000

ROBERT L. HUTCHISON, 0000

RONALD D. JACK, 0000

NATHAN C. JOSEPH, 0000

PAUL G. SCHLIMM, 0000

VERNER M. KIERNAN, 0000

CHARLES D. KIRBY 0000

MARK R. KOVACEVICH, 0000

CHARLES P. LITTLE, 0000

DARRYL L. LONG, 0000

SHEILA H. LYDON, 0000

MARK A. MCINTIRE, 0000

GERARD J. MESSMER III, 0000

MARTIN L. MEXFORD, 0000

ROBERT M. MURRAY, 0000

STEVEN C. PEDERSEN, 0000

JOHN W. PENDER, 0000

SANTOMERO V. RILEY, 0000

JOHN N. RIGGS, 0000

PAUL G. SCHLIMM, 0000

DOVER SEAWRIGHT, 0000

TERRY L. SIMPSON, 0000

JOHN W. PENREE, 0000

SANTOMERO V. RILEY, 0000

JOSEPH E. WICKER, 0000

JOHN F. WINTERS, 0000

MACHIEL WOOD, 0000

PAUL L. ZANGLIN, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be vice admiral

REAR ADM. WALTER B. MAssENBURG, 0000

To be rear admiral (lower half)

CAPT. TIMOTHY J. McGEE, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS A PERMANENT PROFESSOR, UNITED STATES MILITARY ACADEMY, IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 4333(B):

To be colonel

LANCE A. BETROS, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3063:

To be colonel

THOMAS B. SWEENY, 0000

To be lieutenant colonel

ELLIS G. BROCKMAN, 0000

SHARALYN W. BROWN, 0000

KENNETH E. COGEE, 0000

PAUL J. FAMELI, 0000

DANIEL L. JOHNSON, 0000

FREDERICK N. KAWA, 0000

SARAH H. PERRY, 0000

DARBY L. BREY, 0000

LEON R. WILSON III, 0000

To be major

TODD K. ALSTON, 0000

CHERI L. ANDREWS, 0000

RALPH D. ARCHETTI, 0000

JACQUELINE BAEHLER, 0000

EARL E. BIRDSONG, 0000

JONATHAN D. BERRY, 0000

JOHN D. BEURY, 0000

CHRISTIA M. BLOOM, 0000

ROBERT E. BUZAN JR., 0000

KEITH BYRD, 0000

JESS H. CAPEL, 0000

ROGER D. CARSTENS, 0000

DONALD R. CECCONI, 0000

JOHN M. CREAN, 0000

GREGORY L. DEDEAUX, 0000

SONIA R. DEYAMPERT, 0000

ERIC P. EHRMANN, 0000

JOHN M. ESPOSITO III, 0000

ALAN L. GUNNERSON, 0000

JOSEPH J. HAYDON JR., 0000

DAVID E. HECKERT, 0000

CARL G. HERRMANN, 0000

TINA L. HOLT, 0000

JACQUELINE C. HOWELL, 0000

WILLIAM S. HUSING, 0000

ROBERT L. HUTCHISON, 0000

RONALD D. JACK, 0000

NATHAN C. JOSEPH, 0000

PAUL G. SCHLIMM, 0000

VERNER M. KIERNAN, 0000

CHARLES D. KIRBY 0000

MARK R. KOVACEVICH, 0000

CHARLES P. LITTLE, 0000

DARRYL L. LONG, 0000

SHEILA H. LYDON, 0000

MARK A. MCINTIRE, 0000

GERARD J. MESSMER III, 0000

MARTIN L. MEXFORD, 0000

ROBERT M. MURRAY, 0000

STEVEN C. PEDERSEN, 0000

JOHN W. PENDER, 0000

SANTOMERO V. RILEY, 0000

JOHN N. RIGGS, 0000

PAUL G. SCHLIMM, 0000

DOVER SEAWRIGHT, 0000

TERRY L. SIMPSON, 0000

JOHN W. PENREE, 0000

SANTOMERO V. RILEY, 0000

JOSEPH E. WICKER, 0000

JOHN F. WINTERS, 0000

MACHIEL WOOD, 0000

PAUL L. ZANGLIN, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DAVID B. MOREY, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

PatriCk J. Moran, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

LAWRENCE J. CHICK, 0000
EXTENSIONS OF REMARKS

REMEMBERING ROBERT SIMS

HON. JOHN S. TANNER
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TANNER. Mr. Speaker, I rise today in honor of an American veteran, a tireless public servant, an outstanding citizen and a dear friend, Mr. Robert Bell Sims. Bob will be laid to rest next month at Arlington National Cemetery.

During Bob’s long and distinguished career in the United States Navy, he served as a communications officer under two Secretaries of the Navy, then as the Deputy Chief of Information for the Department of the Navy. He also served on the National Security Council and the National Defense University.

Bob retired from the Navy in 1984 at the rank of Captain but did not end his service to our nation’s defense. He served in the White House as Deputy Press Secretary for Foreign Affairs and was later nominated and confirmed to the post of Assistant Secretary of Defense for Public Affairs.

In 1987, Bob turned to his background in magazine and newspaper publishing, when he began fourteen years of service at the National Geographic Society. For thirty years, he was the owner and publisher of The Crockett Times. The work of his family and staff at the newspaper has long been important to Bob’s hometown of Alamo, Tennessee, and indeed to all of us in Crockett County.

Bob is survived by his wife, Patricia, four children and seven grandchildren. My wife, Betty Ann, and I have long cherished our friendship with Bob and Pat Sims and are greatly saddened by Bob’s passing. He will be missed. We know, however, that the legacy he leaves behind will never be forgotten.

Mr. Speaker, please join with me in honoring the long service, dedication and friendship of Bob Sims.

HONORING AUSTIN TOXEN

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a very special young man; a brave young man and a fine example of courage and selflessness.

Austin Toxen, a fifth-grader at Forest Ridge Elementary School in Citrus County, noticed smoke coming from his neighbor’s home. Acting quickly and keenly, Austin ran into his own home, grabbed a fire extinguisher, asked his mother to call 911, and ran into his neighbor’s home to help put out the blaze.

The fire, which started in the home’s kitchen, would have almost certainly quickly spread throughout the entire structure had it not been for Austin’s swift intervention. Austin was able to help contain the fire to the kitchen saving the home from burning entirely. The owner, Janeen Hall, has called Austin a hero and credits him with saving her home.

According to friends and family, Austin has remained very humble about his bravery. Though many have marveled at the fact that he had the composure to act so heroically, he says he just did the right thing.

We all know that Austin’s actions truly are worthy of praise and so Mr. Speaker I ask you and my colleagues to join with me in honoring Austin Toxen today. He truly is a brave young man and a fine example of courage and selflessness.

OCTOBER AS NATIONAL BREAST CANCER AWARENESS MONTH

HON. DOUG OSE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. OSE. Mr. Speaker, I rise today to honor October as National Breast Cancer Awareness Month. Cancer is a growing and tragic epidemic that has undoubtedly touched loved ones, affecting mothers, sisters, daughters, as well as friends. The campaign emphasizes the importance of early detection of the disease through mammograms, clinical breast examination, as well as breast self-examination.

During 2003, over 211,000 new cases of breast cancer are expected to occur among women in the United States and breast cancer remains as the leading cause of cancer death in women in the United States. Alarmingly, every 2 hours, on average, a California woman dies of breast cancer.

I am honored to promote breast cancer awareness and by urging my colleagues to reauthorize the Breast Cancer Research program for 2 more years. Millions of people have purchased the Breast Cancer Research stamp, a program that was first introduced in July 1998, generating over $34.5 million for research and development.

The Breast Cancer Research stamp is especially important to me because my constituent, Dr. Ernie Bodai of Carmichael, CA, was the leading force behind the program. After 14 visits to Washington within 2 years, as well as spending $100,000 of his personal savings, he succeeded, creating a leading for Breast Cancer fundraising. Dr. Bodai is the founder of the Breast Cancer stamp, Chief of General Surgery for Kaiser Permanente, and CEO of CureBreastCancer, Inc.

Driving through Sacramento, he can be easily detected by his car, which is adorned by its license plate—PL 105-41—the title of the public law that made the breast cancer fundraising stamp official.

Mr. Speaker, as Members of Congress, let’s do our part to protect our constituents, promote breast cancer research and education, and reauthorize the Breast Cancer Stamp program.

HONORING FRANK BIERWILER OF SPRING HILL, FL

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a great public servant, a charitable giver, and a selfless hero in my Fifth Congressional District, Mr. Frank Bierwiler.

Frank Bierwiler first served his community in New York for many years as a State Police Officer. Then, after a multiple sclerosis diagnosis in 1974 forced him to retire from the force, Frank Bierwiler pledged to do something good with his life.

It was a few years later, Mr. Speaker, that he moved to Florida and started Daystar Hope Center, an organization giving food, clothing, and assistance with bills to central Floridians in need.

For nearly 20 years, the center has served as an example of the power and impact of benevolence and kindness. Its doors have welcomed thousands of Floridians in need and Mr. Bierwiler’s perseverance and generosity have for so long ensured that those doors stay open.

Unfortunately, after 20 years of helping so many, the Daystar Hope Center is closing.

While it is unfortunate that the center is ceasing operations, many other charitable organizations, came into existence because of the success of the Daystar Hope Center. Frank’s leadership fostered these other organizations and he always worked well with them.

I want to take this opportunity today to first commend Frank Bierwiler for his work in my district and to, second, draw attention to the extraordinary things that can happen when one determined, individual pledges himself to greatness.

Mr. Speaker, I ask you and all of my colleagues in this body to join me in honoring Frank Bierwiler and offering our sincere admiration for his work, life, and accomplishments.
fires that have been plaguing southern California this past week and even now continue to rage. I would also like to recognize the emergency assistance that has been mobilized to help the counties of Ventura, Los Angeles, San Diego, and San Bernardino. The scope of the devastation this disaster has delivered is vast. It has already taken at least 14 lives, destroyed over 1,500 homes, and burned over 500,000 acres of land. In addition, over 50,000 people have been evacuated from their homes.

I would like to take this opportunity to recognize and thank the men and women from my district who, where capable, have dedicated their time to helping combat the fires in southern California. Calaveras County has donated 5 fire engines along with 15 fire fighters. Amador County has donated an entire team consisting of 2 engines and nine people, including one fire chief. In addition, Solano and Sacramento Counties have each dedicated significant resources to assist in the firefighting effort, including over three fire strike teams and two trucks. These mobilizations are fighting to alleviate the impact of this disaster even as I speak. It is my sincere hope that these brave men and women will be able to safely and swiftly contain these fires. My thoughts and prayers are with them.

TAIWAN NATIONAL DAY

HON. HILDA L. SOLIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. SOLIS. Mr. Speaker, I rise before you today to honor and congratulate the people of the Taiwan on their Double Ten: National Day. Earlier this month, on October 10, 2003, Tai- wan celebrated its National Day. This special day for Taiwan is celebrated to commemorate the 1911 Wuch'ang uprising, which marked the beginning of a struggle towards political democracy.

On October 10, fireworks lighted the skies of Taiwan, and the streets were filled with large parades. This celebration is much like our 4th of July celebrations. Taiwan is a shining example of economic success and democratization. Taiwan’s accomplishments are num- mers and its success is attributed to its people.

In August of this year I had the pleasure of meeting Taiwan’s Vice President, Madame Annette Lu in Los Angeles. Vice President Lu is a compelling example to the world’s women of how it is possible to achieve the highest level of responsibility and leadership in their country, and still maintain a strong personal life with family and friends. Her efforts and those of many other women like her, the women of Taiwan have progressed in edu- cation, business, politics, and society in general. Vice President Lu is a true dynamic democratic leader. She represents her people and her country well.

Once again, my best wishes and congratula- tions to the people of Taiwan on their Double Ten National Day.

RECOGNIZING THE 20TH ANNIVERSARY OF PHELPS HOSPICE

HON. NITA M. LOWEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mrs. LOWEY. Mr. Speaker, I rise today to recognize the achievements of Phelps Hospice and to congratulate it on its 20th anniversary. Since 1983, Phelps Hospice has pro- vided end of life care and comfort throughout Westchester County, helping to relieve the physical, emotional, and spiritual pain of more than 2,000 patients and their loved ones.

An essential element of this care is the per- sonalized service that Phelps Hospice pro- vides to meet the unique needs of each pa- tient and his or her loved ones. Working with the patient’s primary care physician, Phelps Hospice develops a plan of care that matches the family’s needs with the abilities of its med- ical director, nurses, social workers, home health aids, spiritual counselors, psychologists, nutritionists, volunteers, therapists, and be- reavement counselors.

Through support groups and memorial serv- ices, Phelps Hospice has offered bereavement counseling for the families of hospice patients, as well as for members of the community.

In addition, since 2002, Phelps Hospice has provided complementary care consisting of massage, music, pet and art therapy, making it one of the first hospices in Westchester County to incorporate complementary care into its list of services.

To aid in the care of patients, Phelps Hos- pice has trained hundreds of selfless volun- teers in the past 20 years.

And, of course, the numerous services of- fered by Phelps Hospice are provided to all patients regardless of race, religion, color, na- tional origin, sex, disability, age, sexual pref- erence, or ability to pay.

I am honored to have this opportunity to congratulate Phelps Hospice on its 20th anni- versary. Westchester County is undoubtedly a better place thanks to the tireless work of its staff and volunteers. I wish them the best of service to our community.

HONORING MARGARET "WEENIE" ROGERS GHIOTTO, BROOKSVILLE, FLORIDA’S "GREAT BROOKSVILLIAN"

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor a woman who has for many years been an outstanding business- woman, citizen, and mentor for me in my hometown of Brooksville, Florida. Margaret Rogers Ghiotto, known as “Weenie” to her close friends and family, was recently honored as a “Great Brooksvillian” for her work on behalf of the community.

Aside from owning and managing Rogers’ Christmas House Village and the Jennings House, which is on the National Register of Historic Places, Mrs. Ghiotto has a back- ground in education, having taught children about the environment and the value of trees for many years.

At a ceremony in city hall this week as part of Brooksville’s Founders’ Week Celebration, Mrs. Ghiotto was honored with a plaque, re- ception, and many kind words. This weekend she will be the Grand Marshal of the Brooksville Founder’s Day Parade.

While this most recent honor is certainly a laudable one, it is not the first such accolade Mrs. Ghiotto has received. Over the years, she has been named the Hernando County Chamber of Commerce’s “Citizen of the Year,” AWBA’s “Business Associate of the Year,” and the Lions Club’s “Outstanding Cit- izen.” She even has awards named after her—the University of Florida Lambda Chi Alpha chapter gives an annual leadership award to a distinguished member, called “The Margaret Rogers Ghiotto Award” and the city of Brooksville honors businesses and individual- with the “Margaret Rogers Ghiotto Beauti- fication Award.”

Mr. Speaker, I ask that you and my col- leagues in this body join me in honoring this great woman and great citizen who should all be so lucky as to have a Margaret Rogers Ghiotto in each of our districts.

HONORING THE SERVICE AND SACRIFICE OF HANK MASON

HON. STEVAN PEARCE
OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. PEARCE. Mr. Speaker, I rise today to recognize Mr. Hank Mason of Los Lunas, New Mexico for his distinguished service to our country during the Vietnam War. Mr. Mason is a great American, and recognition for his serv- ice to our country is long overdue. I thank him for his commitment to freedom and the sacri- lices he endured while serving in Vietnam.

Mason earned, but never received, several war and service medals from the United States Army for his 3 years of service, includ- ing a tour in Vietnam. Mason says he has made many attempts for more than 3 decades to receive the medals that were due to him, with no avail. On Saturday, October 25, 2003, I was proud to present Mr. Mason with the military service medals he has been waiting for more than 34 years.

We must always recognize the men and women of our Armed Forces who have val- antly defended our American values through- out our Nation’s history. These remarkable in- dividuals have helped to make America secure and have advanced the cause of freedom worldwide. By answering the call of duty, our veterans have risked their lives to protect their fellow countrymen. Individuals like Hank Mason have inspired our Nation with their courage, patriotism and dedication.

INTRODUCTION OF H.R. 3387

HON. LANE EVANS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. EVANS. Mr. Speaker, I rise today to in- troduce H.R. 3387, the Veterans Health Pro- grams Improvement Act of 2003. Mr. Speaker,
many of the provisions in the bill I am introducing with my colleague, the ranking member of the Health Subcommittee of the Committee on Veterans’ Affairs, Mr. RODRIGUEZ, are supported by the administration and have been offered to us previously in its request for draft legislation. Specifically, sections 2 through 6 of this bill are based on the draft bill offered by the Veterans Health Care and Benefits Act of 2003 requested by Secretary Principi on August 15, 2003.

Other provisions of this bill extend authorities or reports which already exist in law, but which are expiring. I believe it is critical that some of these activities continue to be mandated and carefully overseen by Congress.

VA has asked for the authority to provide up to 14 days of care to the newborn infants of women veterans. This allows VA to provide a more complete spectrum of care to women—particularly the younger women who are now serving in the military in record numbers. VA may, under current law, offer all maternity care, including labor, delivery and recovery, but once the infant is born, VA is forced to find other methods. The VA Medicaid plan has no other health care benefits—to finance the care of the child. The cost of providing this benefit to the newborn infants of women veterans is negligible.

VA has also asked for authority to provide certain rehabilitative services under its medical care authority. A vital part of therapy for many of VA’s homeless, psychiatric, and substance abuse disorder recovery programs is the vocational activity. Successfully engaging in productive activity is viewed as a critical part of therapeutic processes. Medicaid reimburses vocational programs in accordance with the rules and regulations established by the states. Although VA does offer a range of training programs, often VA must shuttle veterans between programs to meet all the veterans’ needs. This makes case management difficult. Instead of allowing one person to work through job training, placement and support, veterans could be forced to work through several agencies and multiple points-of-contact adding complexity and confusion when veterans are already at a vulnerable turning point in their rehabilitation. This provision allows VA medical centers to provide continuous care throughout vocational training.

Last year the clock ran out on special health care eligibility for herbicide-exposed veterans of the Vietnam-era and also for our Persian Gulf veterans. I spent much of my early tenure here fighting for compensation for veterans who believed their illnesses were associated with exposure to Agent Orange and other herbicides. Learning from that experience, Congress gave veterans who served in the first Gulf war more of the benefit of the doubt by allowing a veteran to be compensated for vague defined conditions and illnesses that are not generally related to military service, but for which they seem to be at high risk. There seems to be a pretty serious schism between what we are doing to compensate veterans and the provision of care for conditions which they believe were associated with their service. Without this special priority, some veterans who have not previously sought VA health care, may never be able to receive it. VA wants to continue to offer priority specialty personalized treatment to veterans in these special priority categories, and I fully support them in this effort. VA would also like to require veterans to provide information from their health insurers. Too often these private-sector payers are raking in the cost-sharing from veterans or their spouses without paying toward their VA treatment. Veterans should be willing to share this information if they are receiving care at VA facilities and their health plans should be willing to reimburse VA as the veterans’ provider-of-choice. It is one of the reasons VA is offering this information as VA continues to mull tough choices of limiting services and those it will serve.

Finally, VA also requested permission to extend its authority to provide acquired propensities to homeless service providers. These partners can purchase VA-acquired properties at discounts ranging from 20 to 50 percent. Through fiscal year 2002, 188 properties have been sold to homeless providers under the program, including two that were sold to a VA medical center for the compensated work therapy program. The shelters established in these properties have provided approximately 372,000 nights of shelter to homeless veterans. The VA has also entered into 52 leases with homeless providers. Most of these were subsequently converted into sales to homeless providers. I hope that we can support VA’s efforts to continue to offer these properties to homeless providers.

In addition to the VA-requested provisions, I am proposing several extensions of reports and additional authorities that I strongly believe must continue. Congress created two advisory committees—one that advises the Under Secretary on Health exclusively about Post-Traumatic Stress Disorder and one that makes recommendations for a variety of programs serving Severely Mentally Ill veterans.

Veterans Health Care and Benefits Act of 2003 provided Congress with the information it needed to ensure Congress that these mental health programs are receiving adequate attention as VA continues to reform its health care delivery. It has become clear that since 1996, and likely before, VA has continued to pare back the resources it commits to its mental health programs. Congress is still awaiting the report due last Spring that demonstrates VA’s maintenance of these programs’ capacity in fiscal year 2002. These Committees serve as much needed internal spokespersons and advocates for their programs and are particularly vital in more fiscally constrained times. I am hopeful that my colleagues will agree that we continue to require the oversight of these internal watchdogs.

In addition to extending these reporting requirements, I would like to see Congress committed to allowing Vietnam-era veterans to continue to seek readjustment counseling at Vet Centers. As a Vietnam-era veteran myself, I have seen too many of my peers have significantly delayed reactions to the traumatic events of our Korean War and World War II. Veterans continue to struggle with the past we might have suspected they left long ago—look at how many veterans from that war had strong emotional reactions to Saving Private Ryan. As we all recall, there were unique challenges to returning home from service during the Vietnam War that this nation did not enjoy public support. While we’ve learned from this experience to “love the warrior, if not the war” I would like to ensure that Vet Centers remain accessible to Vietnam-era veterans who had unique adjustment challenges upon their return to service.

Finally, my bill would eliminate the sunset of authority for VA’s sexual trauma counseling program currently set to expire December 31, 2004. Surveys from a few years ago continued to demonstrate that women in the Armed Services are at a high risk for sexual harassment and, even sexual assault. Sadly, it is apparent that sexual trauma will continue occurring in military service and elsewhere. VA has served as a valuable outlet to women who have believed themselves and the government had otherwise abandoned them. We must ensure that VA’s programs continue to exist to serve for the indefinite future.

Mr. Speaker, this bill supports proven programs that are already offering invaluable assistance to the veterans that are able to avail themselves of them. I want veterans to continue to be able to rely upon them.

REPUIDENTING ANTI-SEMITIC SENTIMENTS EXPRESSED BY DR. MAHATHIR MOHAMAD, OUTGOING PRIME MINISTER OF MALAYSIA

HON. FRANK PALLONE, JR.
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003

Mr. PALLONE. Madam Speaker, I rise today in support of H. Res. 409 that condemns recent antisemitic remarks by the Prime Minister of Malaysia.

Unfortunately, rather than openly condemn the Prime Minister for his remarks, many in the global community have remained largely silent on this issue. By not taking a stand against hateful speech, the international community is showing that it is okay for world leaders to promote bigotry and violence. By not taking a stand, members of the European Union and other world leaders are showing that other acts of hate speech will be allowed to continue without consequence.

That is why it is critical that Congress takes a stand and denounces these remarks and I urge my colleagues to support this resolution. It is important that we go on record to show that this type of hatred and bigotry is unacceptable—especially by world leaders who are expected to set an example for their people.

By allowing these hateful remarks to go unacknowledged, that makes it that much more difficult to bring opposing sides together in the Middle East and puts us that much further from an eventual peace agreement.

Madam Speaker, I urge my colleagues to support H. Res. 409.

HONORING DR. JOHN ATANASOFF ON THE ONE HUNDREDTH ANNIVERSARY OF HIS BIRTH

HON. TOM LATHAM
OF IOWA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. LATHAM. Mr. Speaker, on October 30, 31 and November 1, 2003, Iowa State University in Ames, Iowa, will hold a landmark event that will be the Nation’s tribute to the late John Vincent Atanasoff’s 100th birthday (October 4, 2003). Dr. Atanasoff, along with electrical engineering graduate student, Clifford Berry, developed the world’s first electronic digital computer from 1939 to 1942 while serving as a
physicist and mathematician professor at Iowa State University. Known as the Atanasoff-Berry Computer, the invention was Atanasoff's solution to finding a better, more efficient way for his students to learn. It was the principles of his invention that changed the face of technology forever.

The university is organizing the International Symposium on Modern Computing, October 30–November 1 in celebration of his life's accomplishments. Leaders in the computing field, internationally renowned academic researchers, and college and university students from across the Nation will come together to discuss the newest technologies and research that have the potential to change the world as dramatically as did the principles that Dr. Atanasoff's invention established. Dr. Atanasoff is a recipient of the Nation's highest award for innovation, the National Medal of Technology, which was presented to him by President George Bush in 1990. Dr. Atanasoff died in 1995.

PERSONAL EXPLANATION

HON. MAX BURNS
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. BURNS. Mr. Speaker, I rise today to provide an explanation for my absence during votes yesterday evening.

During yesterday’s votes, I was traveling back to Washington from a Congressional Delegation trip to Iraq. I appreciate the opportunity to visit our troops serving overseas and to witness firsthand the situation in Iraq. Our delegation arrived into the Washington area after votes had concluded.

FREEDOM FOR DR. MARCEL O CANO RODRIGUEZ

HON. LINCOLN DIAZ-BALART
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to speak about Dr. Marcelo Cano Rodriguez, a prisoner of conscience in totalitarian Cuba.

Dr. Cano Rodriguez is a Medical Doctor. As a physician, he has chosen to devote his life and his abilities to healing the sick, mending the lame, and easing the suffering of his patients. However, as Dr. Cano Rodriguez quickly learned, easing the suffering of the Cuban people is not a goal of Castro’s dictatorship.

The longer Dr. Cano Rodriguez worked within the totalitarian healthcare system, the more he noticed medical resources being taken from the Cuban people and redirected towards tourists who could pay with hard foreign currency. Dr. Cano Rodriguez, no longer able to work within a system that abandons citizens in favor of tourists, became the National Coordinator for the Cuban Independent Medical Association.

The Cuban Independent Medical Association is comprised of physicians who joined forces to set up independent clinics where equipment and drugs prescribed by doctors are distributed without charge. As Dr. Cano Rodriguez searched for ways to make his group more effective, he approached the Cuban Commission for Human Rights and National Reconciliation for guidance. After learning of the Commission’s professed goal of basic human rights, he became an important member of that group.

Unfortunately, Dr. Cano Rodriguez, his being associated with two groups who profess to work to provide the Cuban people with their basic rights and their basic medicine proved to be too much for Castro and his machinery of repression. On March 25, 2003, Dr. Cano Rodriguez was arrested in Las Tunas. The “illegitimate” activities cited by Castro’s puppet prosecutor in the sham trial were that he visited prisoners as part of his work with the Cuban Commission for Human Rights and National Reconciliation and that he maintained ties to Doctors Without Borders. Dr. Cano Rodriguez was sentenced to 18 years in Castro’s dungeon.

Mr. Speaker, I want to repeat that, Dr. Cano Rodriguez was sentenced to 18 years in Castro’s gulag for visiting prisoners and maintaining ties to Doctors Without Borders.

My colleagues, every one of us should be totally appalled that a physician who attempts to aid the oppressed and heal the sick is languishing in a dungeon for his merciful actions. My colleagues, we must demand immediate freedom for Dr. Marcelo Cano Rodriguez.

HONORING ALEX SPANOS

HON. JOHN T. DOOLITTLE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. DOOLITTLE. Mr. Speaker, today I wish to congratulate my friend, Alex Spanos, as he will soon receive the STARLIGHT Foundation’s Heart of Gold Award for his selfless efforts on behalf of children with serious illnesses and their families, and for his extensive contributions to all children and youth.

Alexander Gus Spanos was born to loving parents in 1923 in Stockton, California. In 1942, he rendered service to his country by joining the Air Force. Six years later, he wed his life-long sweetheart, Faye Papfaklis. In 1951, Alex quit his job at the family bakery, earned a $800 loan and bought a panel truck to start his own company, the A.G. Spanos Agricultural Catering. Soon, this new venture became the largest catering business of farm laborers in the United States. Alex began investing in real estate and, by 1956, he had become a millionaire. This allowed him to semi-retire and take on golf, in which he became a pro amateur within six years.

When changing farm labor regulations signaled the end of his catering business, Alex launched A.G. Spanos Construction. After building his first apartment complex in Stockton, California, in 1960, Alex expanded the company into neighboring states and across the southwestern and southern states. By 1977, his firm was the number one builder of apartments in the nation.


Mr. Speaker, not only is Alex G. Spanos a successful businessman, but he is also a successful human being. His family has always taken another stage in his life and enjoy the time they share with their four children and 15 grandchildren. It is telling that his companies continue to be family owned and operated, as he has shared management responsibilities with his sons, Dean and Michael.

A noted philanthropist, he has reached out to those in need and given his resources to help whenever and wherever he could. Over the years, he has contributed to his own community and to causes around the world by donating millions of dollars to charities, churches, hospitals, educational institutions, and civic and athletic organizations.

It is fair to say that Alex G. Spanos’ outlook on life is best reflected in the title of his new book, Sharing the Wealth. The communities and individuals he has touched throughout his life would attest to that.

Mr. Speaker, it gives me great pleasure to commend this distinguished citizen for his countless acts of service to his community, California, and the country.

EXPRESSING GRATITUDE TO MEMBERS OF U.S. ARMED FORCES DEPLOYED IN OPERATION RESTORE HOPE IN SOMALIA IN 1993

SPEECH OF

HON. SHEILA JACKSON-LEE
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Con. Res. 291 to offer my gratitude, for myself and on behalf of the constituents of the 18th Congressional District, to the soldiers who fell and who served our country in “Operation Restore Hope.”

“Operation Restore Hope” was a 1993 United Nations peacekeeping venture to restore order in the East African country of Somalia, characterized by its nomadic society.

The Operation was launched with guarded optimism but went tragically awry on Oct. 3, 1993 when 18 U.S. soldiers were killed in a firefight with Somali gunmen. A decade later, the Bush Administration now contemplates taking military action against alleged terrorist groups in Somalia who might have been responsible for the tragedy.

Man-made famine prompted the massive foreign intervention in Somalia. This famine was caused by a drought made murderous by a civil war that sent gunmen across the country’s most fertile agricultural areas. At the famine’s peak, more than 300 people starved to death each day in hard-hit towns like Baidoa and Baardheere because militia fighters first disrupted the lives of herdsmen and farmers, then stole the food aid sent to relieve their suffering. Throughout the worst of the crisis, gun-toting young militiamen looted most of the relief food as spoils of war or blockaded its entry into the country through port cities by demanding exorbitant amounts from aid ships waiting to dock.

In order to break the famine in Somalia, we had to break the stranglehold of the gunmen and allow aid to flow unimpeded.
The 100 elite U.S. infantrymen, who tried to capture and defeat a Somali warlord in his home, suffered 70 percent casualties—a figure sadly compared to a 1965 massacre in Vietnam’s la Drang Valley. So badly pinned down were the Americans in Mogadishu that they could not evacuate their wounded, including Ranger commander Lt. Col. Danny McKnight, for nine hours. The biggest problem in that situation was the thousands of young men floating around the country lying in wait for our American troops.

Since then President George Bush ordered more than 25,000 U.S. troops to intervene in Somalia in December 1992 to help stop deaths from starvation, exacerbated by clan warfare, 30 Americans died in combat and 175 were wounded. There also were six non-combat deaths, and seven soldiers were killed one missing off the Kenyan coast in an AC-130 Specter gunship. In addition, about 68 U.N. soldiers were killed and 262 wounded, according to U.N. figures, making this the bloodiest peacekeeping operation since the Congo crisis three decades ago.

This situation is similar to that experienced by our troops today in Iraq. I visited the As-Sayliyah Central Command Base in Doha, Qatar on October 13, 2003 and heard the concerns of the troops from their own mouths. Leaders of the units keep a warm smile and upbeat attitude to keep their troops feeling positive despite the compound feeling of homesickness due to the failure of our government to timely relieve them and the feeling of vulnerability due to the lack of a sufficient number of trained MP’s. I heard testimony about how a ground soldier watched his partner and the operator of a military vehicle get tossed out as the vehicle was thrown airborne by a land mine. “Why did you hit this mine,” I asked. “It was just one of those mines that was missed in the sweep . . . .” said the soldier. Because there isn’t enough personnel or specialists to assign to technical tasks, unskilled or untrained technicians frequently get asked to do jobs that they have not mastered enough to be able to do. In the lives of those who must traverse the sands of Baghdad. He misses his wife and newborn baby dearly. Because there hasn’t been a change in the personnel on the front lines in several months, many reservists and active duty servicemen and women have spent a longer time in Iraq than was promised by the Administration. May 1, 2003 was supposed to have been a day of hope and homecoming; instead, it was a shame. Some of these troops feel like twenty-first century detainees sent to Asia as offensive and anti-Semitic. Rhetoric of this nature, which embodies age-old stereotypes, can be neither excused nor rationalized. It only serves to incite further sectarian violence and should be condemned universally.

Even more disturbing is that none of 57 national representatives attending the Organization of the Islamic Conference, including some U.S. allies, have raised their voices in protest. In fact, many demonstrated complicity in spreading this message of hate and incitement against Jews by applauding the Prime Minister’s remarks. The standing ovation he received and the subsequent defense of his remarks by almost all the participants at this meeting of Muslim leaders reminds us that anti-Semitic beliefs remain prevalent throughout the world, even in moderate states like Malaysia.

I was proud to be one of 80 Members of the House who signed a letter to the Prime Minister of Malaysia condemning his remarks and calling upon him to clarify or retract his statements. I also commend the Senate for passing a resolution condemning the statement and requesting that President Bush condemn the remarks during his meeting with the Malaysian Prime Minister in Bangkok during Asia-Pacific Economic Cooperation (APEC) summit.

Mr. Speaker, we must always take a stand against hatred and bigotry by world leaders whose rhetoric threatens to make peace in the Middle East and around the world more elusive. I am pleased to be a cosponsor of this important resolution and urge my colleagues to support it today.

20TH ANNIVERSARY OF THE BROTHER BENNO FOUNDATION

HON. DARRELL E. ISSA OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. ISSA. Mr. Speaker, on Wednesday, October 29, the Oceanside community will celebrate the 20th anniversary of the Brother Benno foundation.

The foundation was established by Harold and Kay Kutler in 1983 based on the work of a Benedictine monk, Brother Benno Garrity, from the Prince of Peace Abbey in Oceanside, CA. Brother Benno died in 1992 after dedicating his life to feeding the poor and homeless.

The foundation began with a small soup kitchen at 307 Minnesota Street in Oceanside. It has since grown into a ministry addressing many types of social problems in San Diego County including hunger, homelessness, and alcohol and drug addiction.

Anyone needing help can come to Brother Bennos and register for services provided by the foundation. In their 20 years of service the foundation has provided 132,000 nights of lodging, more than 433,000 pounds of clothing, 19,800 blankets and medical and dental care.

On behalf of all the people whose lives have been touched by the Brother Benno Foundation I want to recognize the volunteers and support staff at the Brother Benno Foundation. Thank you for 20 years of service.

CONGRATULATING THE NEW CHAPTER OF THE COLLEGE REPUBLICANS AT SOUTHERN UNIVERSITY

HON. DAVID VITTER OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. VITTER. Mr. Speaker, I rise today to honor a new organization on the Southern University campus. A new chapter of the College Republicans has been created at this Historically Black University in Baton Rouge, Louisiana. This is a welcome event for all Louisiana Republicans.

My heartfelt congratulations are extended to all of the members of the Southern University College Republicans, and especially club president Gene Tinner, for their hard work in founding this new organization. I am confident that this chapter will earn respect on the Southern Campus and throughout Louisiana, and become a valuable addition to the state Republican Party. I am honored to share this affiliation with such a bright group of young Louisianaans from one of our great educational institutions.

My best wishes go forth to this new group for their vision and leadership, and to the Southern University campus for their support.

100TH ANNIVERSARY OF TRAVELERS PROPERTY CASUALTY

HON. MELISSA A. HART OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Ms. HART. Mr. Speaker, I am privileged to have the opportunity to pay tribute to a leading Insurance Provider that serves Western Pennsylvania. October 24, 2003 marks the 100th anniversary of Travelers Property Casualty, a leading provider of a broad range of insurance products.

Travelers Property Casualty, located in Philadelphia since 1906, currently employs more than 225 individuals. Travelers provides a wide range of insurance products including workers compensation, integrated disability, property, liability specialty lines and broiler and
machinery. The company is the third largest commercial lines insurer and has been rated the second largest writer of homeowners and auto insurance through independent agents.

I applaud Travelers Property Casualty for their long-standing dedication to serving the people of Western Pennsylvania and all of their long-standing dedication to serving the auto insurance through independent agents.

the second largest writer of homeowners and commercial lines insurer and has been rated machinery. The company is the third largest E2162 October 30, 2003

struction, so called CIAC, as enacted under the definition of contributions in aid of construction, so called CIAC, as enacted under the definition of contributions in aid of construction.

I ask all of my colleagues in the House of Representatives to join me in honoring this successful business for their 100 years of service.

TRIBUTE TO THE FRED C. FISCHER LIBRARY

HON. THADDEUS G. MCCOTTER
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. MCCOTTER. Mr. Speaker, I rise today to pay tribute to the Fred C. Fischer Library of Belleville, Michigan, as it celebrates its 50th anniversary this year.

Serving the residents of Belleville, Sumpter Township, and Van Buren Township, the Fischer Library was built in 1953, when the public library outgrew its space at the J.C. Pullen Furnace and 3 other libraries.

From 1953 until 1992 the Fred C. Fischer Library remained the quaint and homey 3,500 square foot library it was built to be. Meanwhile, the population of the area grew from 12,400 to over 35,000. The library became increasingly crowded and more bookshelves were needed to accommodate the growing collection.

Thanks to contributions from the Belleville Rotary Club's Charles B. Cozzad Foundation, the Simester estate, many smaller individual contributions, federal grants, and the commitment of the City of Belleville, Sumpter and Van Buren Townships, the Fischer Library was able to triple the size of the library, expand its catalog to include just about everything from books to DVDs, as well as offer public internet access, and events for patrons of all ages.

The Fred C. Fischer Library continues to live up to its mandate of “making the library an attractive place for all users, young people particularly.”

Mr. Speaker, I hope my colleagues will join me in thanking the Fred C. Fischer Library for its outstanding service to the people of Michigan, and wish them well in the next 50 years.

A BILL TO CLARIFY THE TAX TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION

HON. WALLY HERGER
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. HERGER. Mr. Speaker, I am introducing legislation today to ensure that burdensome regulation does not add unnecessarily to the cost of housing.

The need for this legislation is brought about because the Department of Treasury has issued regulations to provide guidance on the definition of contributions in aid of construction, so called CIAC, as enacted under the Small Business Job Protection Act of 1996. Despite the fact that Congress specifically removed language concerning “customer services fees” in its amendment in 1996, the Department added the language back into the proposed regulation specifying that such fees are not CIAC. They then defined the term very broadly to include service laterals, which traditionally and under the common state law treatment would be considered CIAC.

Because state regulators require all of the costs of new connections to be paid up front, these regulations will force water and sewerage utilities to collect the federal tax from homeowners and use it to pay for service laterals that traditionally are CIAC. Because they collect it up front, the utility is forced to “gross up” the tax by collecting a tax on the tax, resulting in an over 55 percent effective tax rate.

This bill will clarify prospectively that water and sewerage service laterals are included in the definition of contributions in aid of construction (CIAC). It clarifies current law by specifically stating that “customer service fees” are CIAC, but maintains current treatment of service charges for stopping and starting service (not CIAC).

Mr. Matsu and Mrs. Johnson along with many of our colleagues here in the chamber, worked hard over the course of a number of years to restore the pre-1986 Act tax treatment for water and sewage CIAC. In 1996, we succeeded in passing legislation. It was identical to pre-1986 law with three exceptions. Two of the changes were made in response to a Treasury Department request. The third removed the language dealing with “service connection fees” primarily because of potential confusion resulting from the ambiguity of the term. The sponsors of the legislation were concerned that the IRS would use this ambiguity to exclude a portion of what the state regulators consider CIAC.

As part of our efforts, we developed a revenue raiser in cooperation with the industry to make up any revenue loss due to our legislation, including the three changes. This revenue raiser extended the life, and changed the method, for depreciating water utility property from 20-year accelerated to 25-year straight-line depreciation. As a consequence of this sacrifice by the industry, our CIAC change made a net $274 million contribution toward deficit reduction.

What is most important to keep in mind is that this unnecessary tax of over 55 percent is passed directly on to homeowners and local governments. I urge my colleagues to join with us in sponsoring this important legislation in order to ensure that American homeowners do not face further burdens.

FEDERAL EMPLOYEE STUDENT LOAN ASSISTANCE ACT

HON. FRED UPTON
OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 28, 2003

Mr. UPTON. Mr. Speaker, I commend my colleagues for this needed legislation, which ensures the federal government’s deep commitment to making quality higher education possible for the millions of Americans who want to make the most of their education.

But we should go even further. In order to best maximize federal government resources, we should encourage competition in all aspects of the student loan program, including consolidation loans.

In order to instill such competition, we will need to make sure that during the reauthorization of the Higher Education Act, which is currently moving through the Education and Labor Committee, we repeal the single hold-harmless provision. Chairman BOEHNER and Congressman MCKEON, for their efforts to keep college costs under control during consideration of this important legislation.

It will be part of my commitment to them as well as Federal agencies, students and families that the best way to ensure the benefit of competition from the more than one thousand qualified lenders in the program when they consolidate their loans and, thus, allow them to take advantage of historically low fixed interest rates.

A TRIBUTE TO REV. ROBERT M. WATERMAN

HON. EDOLPHUS TOWNS
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Rev. Robert M. Waterman, his commitment to his congregation and dedication to his community.

Rev. Robert M. Waterman, the son of a Pentecostal preacher, was born in Brooklyn, New York. As a young man, he was reared in Huntington, South Carolina, steeped in both the Pentecostal and Baptist traditions.

In 1985, he was licensed to preach by Abundant Life Tabernacle. Rev. Waterman also served as the Associate Pastor and Youth Pastor at Union Baptist Church in White Plains, New York under the pastoral guidance of Reverends Robert L. Mason and Verlin D. Williams. He began his work at Antioch on November 4, 2001, and was officially installed as the church’s reverend in May of 2003. During this time, Reverend Waterman graduated from the New York Theological Seminary with a Master of Divinity.

Rev. Waterman has brought many talents to Antioch including a youthful exuberance, a commitment to getting the job done, and a quiet yet ebullient spirituality. With his leadership, new seats and carpet have been installed in the balcony, an after school homework program was created, the Wednesday night bible study was revived, and a large influx of new worshippers have come to the church. Since his installation, Reverend Waterman has worked closely with the youth ministry, forming Teens United for Fellowship (TUFF). He has also established leadership classes and retreats, reinstated the Christian education department, spearheaded the purchase of a state-of-the-art sound system in the sanctuary, and revived the Antioch Community Student program for youth and seniors. He has also been instrumental in the building fund for the elevator project.

Spiritually, Reverend Waterman is known as “The Preacher of Thunder” as he encourages his congregation to know God so that hearts, and thereby lives, can be changed. His commitment to Antioch is not just local but has re-location to the Bedford-Stuyvesant community.

As Antioch Baptist Church celebrates its 85th anniversary, the church is stronger than...
ever with the guidance and leadership of Reverend Waterman.

Mr. Speaker, in a short time, Rev. Robert M. Waterman has already made a positive difference in the lives of the Antioch Baptist Church congregation and the Bedford-Stuyvesant community. As such, he is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.

RECOGNIZING MATTHEW FISH FOR ACHIEVING THE AWARD OF GOLD MEDAL OF ACHIEVEMENT

HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GRAVES. Mr. Speaker, I proudly ask you to join me in commending Matthew Fish for his accomplishments with the Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

Matthew has been very active with his troop, participating in many scout activities. Over the 10 years Matthew has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship, Fine Arts Youth Department, and elected as National Scout.

Mr. Speaker, I proudly ask you to join me in commending Matthew Fish for his accomplishments with the Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

HONORING THOMAS J. SERRA ON THE OCCASION OF HIS RETIREMENT

HON. ROSA L. DeLAURO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. DeLAURO. Mr. Speaker, it is with great pleasure that I rise today to join in paying tribute to one of Connecticut’s finest school administrators and community activists. People like Thomas Serra are what make our communities strong. From his important work educating the young people of Middletown for the past 30 years to his involvement in many other settings, he has dedicated his life to public service.

I often speak of our nation’s need for talented, creative, enthusiastic teachers who are ready to help our children learn and grow. Tom Serra is just that kind of educator. Through his work, he has touched the lives of thousands of children—ensuring that they had the skills and tools necessary to be successful in their adult lives. Tom began as an English instructor at Vinal Technical High School where he would later take on the role of athletic coordinator. Fourteen years ago, Tom moved into administration becoming the school’s assistant director and for the last six years, he has been leading Vinal as the Director.

Public education is the cornerstone of the American dream, leveling the playing field and providing every child with the opportunity to make the most of his or her talents. It is talented professionals like Tom who truly shape the leaders of tomorrow. He is dedicated to the positive development of not only our children’s character and development as well. In speaking to Tom, his remarkable commitment and dedication to his students and Vinal is undeniable and I am sure his presence will be missed.

As a lifelong resident of Middletown, Tom is deeply involved in the life of his community. In serving one term as Mayor, actively participating on the Democratic Town Committee, the City Council, the Police Commission, as well as a myriad of other municipal committees and local service organizations, he has become one of Middletown’s most respected and highly-regarded leaders. I am confident that even in his retirement he will remain a strong and vocal advocate for Middletown and its residents.

Today, as Tom celebrates his retirement, I would like to express my deepest thanks and appreciation for his tireless efforts on behalf of the City of Middletown. He is a leader who is second to none, and his talent and commitment have enriched our lives. It is with great pleasure that I join his wife, Maryann; his children, Jason and Christopher; as well as the many family, friends, and community members who have gathered this evening to wish Tom many more years of health and happiness.

HONORING ST. BARNABUS EPISCOPAL SCHOOL

HON. E. CLAY SHAW, JR.
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. SHAW. Mr. Speaker, I rise today in recognition of St. Barnabas Episcopal School in Deland, Florida for the accomplishment of being chosen as a “National No Child Left Behind Blue Ribbon School of Excellence.” St. Barnabas has been an exceptional example of how the “No Child Left Behind” program ensures that every child learns, and that no child will ever be forgotten.

Since its conception in 1982, by the United States Secretary of Education under President Reagan, the Blue Ribbon School of Excellence has identified public and private schools throughout the country that exhibit extraordinary teaching and learning techniques. The Blue Ribbon award is given to a school in recognition of exemplary performance in the fields of both education and community service. This year, the United States Department of Education recognized 176 public and 47 private schools as Blue Ribbon Schools. St. Barnabas was the only Episcopal School to be recognized for this award this year. In order to be recognized as a National Blue Ribbon School, an intense, research-based list of criteria must be met. A Blue Ribbon School must excel in all areas of academic leadership, teaching, faculty and parent involvement, student achievement levels, as well as safety and discipline. In 2003, St. Barnabas met all of these test scores constantly in the top 10 percent of the nation, St. Barnabas qualified by submitting their application for the National Blue Ribbon.

Founded in 1971, St. Barnabas is also accredited by the Florida Council of Independent Schools. The school has an enrollment of 344 students ranging from Pre-Kindergarten to 8th Grade. What makes St. Barnabas excellent is the school’s drive for excellence both in and out of the classroom by stressing the growth of the student’s character as well as intellect. The school focuses on academic excellence, as well as sound moral values and high self esteem. As an Episcopal School, St. Barnabas also stresses a strong relationship with God and the community in order to build well-rounded students and citizens.

On a more personal note, my grandmother, Nora Walker, was a principal, so education runs in my family. I understand the difficulties of teaching and raising young children, especially in today’s society. That is why I firmly believe in the President’s “No Child Left Behind” plan for education and believe it is the best course of action for our nation’s schools.

I am very pleased to see St. Barnabas Episcopal School following the President’s plan in becoming a “No Child Left Behind Blue Ribbon School of Excellence.”

Mr. Speaker, St. Barnabas should be an inspiration to us all and I am honored to recognize them today in front of the entire Congress as pillars of the community as well as leaders in the field of education.

PERSONAL EXPLANATION

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. SCHAKOWSKY. Mr. Speaker, on roll call no. 570, Basic Pilot Extension Act of 2003, had I been present, I would have voted “nay.”

A TRIBUTE TO DR WALDABA H. STEWART, J.R., PH.D

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Dr. Waldaba H. Stewart, Jr. for his commitment to public service and active involvement in New York’s civic affairs for more than 40 years.

While Dr. Waldaba H. Stewart, Jr. is a native of Panama, he has been a vital asset to the Brooklyn community for more than four decades. Starting with the Unity Democratic Club in 1960, he worked as an Election District Captain and Campaign Manager for the late Thomas R. Fortune, Executive Member. Dr. Stewart was a diligent member of the Unity Democratic Club and serving and supporting in all political elections.

In 1968, he began his own political career as a successful candidate for State Senate, where he served for four years. From 1968–1969, he served as Statewide Chairman of the NAACP Political Action and Voter Registration Committee. He was also one of the founding members of the Board of Directors of the Commerce, Labor, and County of Kings Corporation that converted the Brooklyn Navy
HONORING THE HONORABLE
GUIDO CALABRESI

AS HE IS
HONORED WITH THE CHARLES A.
RAPALLO AWARD

HON. ROSA L. DELAURO
OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. DELAURO. Mr. Speaker, it is with great pride that I arise today to recognize the Columbia Lawyers Association in paying tribute to one of the New Haven community’s most outstanding citizens, and my dear friend, the Honorable Guido Calabresi. In recognition of his contributions, Judge Calabresi will be honored with the thirty-eighth annual Charles A. Rapallo Award.

The first Italian-American appointed to the New York State Court of Appeals, Charles A. Rapallo has served as an example to many young law professionals. Each year, the Columbia Lawyers Association, a professional organization of Italian-American attorneys, honors an individual who has demonstrated a unique commitment to the field of law. Though he has been recognized with a myriad of honorary degrees, awards, and commendations—both in the United States and abroad—the Charles A. Rapallo Award is a true reflection of the many invaluable contributions Guido has made to the judiciary and the bench.

Born in Milan, Italy, Judge Calabresi has become one of New Haven’s most respected scholars in the field of Law. Graduating from Yale University, Oxford University, and Yale Law School, where he was first in his class, his impressive career has spanned nearly half a century. From clerking for United States Supreme Court Justice Hugo Black, to serving as Dean and Sterling Professor at Yale Law School, to his judicial appointment to the United States Court of Appeals—his has been a career that will leave a legacy which is sure to inspire generations to come. He has lived the American Dream.

Throughout his life, Judge Calabresi has also demonstrated a unique commitment to his community. As a professor, he continues to touch the lives of hundreds. From clerking for United States Supreme Court Justice Hugo Black, to serving as Dean and Sterling Professor at Yale Law School, to his judicial appointment to the United States Court of Appeals—his has been a career that will leave a legacy which is sure to inspire generations to come. He has lived the American Dream.

Andrew has been very active with his troop, participating in many scout activities. Over the 11 years Andrew has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship and Fine Arts Youth Department.

Mr. Speaker, I proudly ask you to join me in commemorating Andrew Stafford for his accomplishments with the Royal Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.
Raul King was born on March 17, 1946 in the Dominican Republic. The son of Rosa and Pedro King, and the second of five children, Raul came from modest and humble beginnings. At an early age, Raul learned the value of hard work.

He worked as a boiler mechanic on a locomotive train that would cross the town of Sanchez where he lived. In the summer of 1963, at the age of 17, Raul enlisted into the navy, earning the rank of Officer Petty Class.

In 1970, Raul made his first trip to the United States, where he arrived in New York. Once in New York he worked as a mechanic and obtained his G.E.D. at Bushwick High School.

In 1981, Raul got involved in real estate investments and through perseverance and trial and error, he became a promising real estate salesperson. By 1990, Raul obtained his license in real estate and became a licensed Realty Broker.

For the past decade, Raul has shown a passion for the realty business and he has no plans to retire.

Raul and his wife Beebis King have been married for 23 years. They now have four children and five grandchildren.

Mr. Speaker, from humble beginnings, Raul King has come to this country and has become a successful realtor through hard work and dedication. As such, he is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.

RECOGNIZING JASON BREWER FOR ACHIEVING THE AWARD OF GOLD MEDAL OF ACHIEVEMENT

HON. SAM GRAVES
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jason Brewer, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Royal Rangers of Northern Missouri and in earning the most prestigious award, the Gold Medal of Achievement.

Jason has been very active with his troop, participating in many scout activities. Over the eleven years Jason has been involved with the Rangers, he has held numerous leadership positions, serving as Patrol Guide and Senior Patrol Guide. He also was involved in Frontiersmen Camping Fellowship.

Mr. Speaker, I proudly ask you to join me in commending Jason Brewer for his accomplishments with the Royal Rangers and for his efforts put forth in achieving the highest distinction of Gold Medal of Achievement.

HONORING THE CLIFFORD W. BEERS GUIDANCE CLINIC ON THEIR 90TH ANNIVERSARY

HON. ROSA L. DELAURO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. DelAURO. Mr. Speaker, it is with great pleasure that I rise today to join with staff, clients, and the Greater New Haven community in celebrating the 90th Anniversary of the Clifford W. Beers Guidance Clinic of New Haven, Connecticut. This is a milestone for a special organization.

"A pen rather than a lance has been my weapon of offense from Clifford W. Beers’ A Mind That Found Itself, has and continues to be the guiding principle of the clinic and its staff. Since its inception in 1913, the clinic has strived to address the critical needs of the mentally ill and has expanded its mission to assist children and families who face such crises as violence, teenage suicide, drug use, homelessness, physical and sexual abuse, and the impact of AIDS on children.

Clifford Whittingham Beers, one of the first mental health advocates in America, founded the clinic as a compassionate alternative to early psychiatric institutions where the mentally ill were treated. His own battle with mental illness inspired Beers to the belief that those suffering from “diseases of the mind” would have the best chance to become healthy and productive if they received treatment and understanding in their own communities. His work and unparalleled advocacy changed the face of American psychiatry.

Today, the clinic, working with local agencies and organizations, is able to provide a multitude of programs to those most in need. The partnerships they have established allow them to provide comprehensive services to their clients—making a real difference in the lives of thousands of children and families. Just recently, I had the opportunity to visit the Clifford Beers Clinic and was touched by the story of a man whose children received care at the clinic. The pure gratitude that this man expressed to the clinic and its staff for being there for him and his family is indescribable. In building upon the vision of Clifford Beers, the clinic has been able to provide one of life’s most precious gifts—hope.

Through its gift of hope, the Clifford Beers Clinic has left an indelible mark on our community and the thousands of lives they have touched. For its many invaluable contributions to our community and for all of their work on behalf of our children and families, I am proud to stand today and extend my sincere congratulations to the Clifford W. Beers Guidance Clinic on their 90th Anniversary.

HONORING BILL AND TRICIA MANNING—THE 2003 ANGELS OF ADOPTION

HON. E. CLAY SHAW, JR.
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. SHAW. Mr. Speaker, I rise today to recognize Bill and Tricia Manning, my 2003 Angels of Adoption. Bill and Tricia are always there for children in need. They continue to provide foster care, currently for two more beautiful children in need. They have hearts for children and it shows through their dedication and commitment to them. Bill and Tricia make a great team and provide a wonderful balance for each other.

Bill and Tricia are honored to have this wonderful family as constituents in my congressional district. It gives me great privilege to nominate them as Angels of Adoption.

A TRIBUTE TO HARRY T. PINCHBACK

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of Harry T. Pinchback for his long-time public service and commitment to the Brooklyn community.

A descendant of P.B.S. Pinchback, the first African American to become a state governor, Harry T. Pinchback was born and raised in the Bedford-Stuyvesant neighborhood of Brooklyn. In his late teens, he moved to the Brownsville section of Brooklyn. He and his wife Peggy have been married for 45 years, and they have a daughter Angela and a grandson named Paris.

“Pinch,” as he is universally known throughout Brooklyn, graduated from Alexander Hamilton High School in Brooklyn and would later attend John Jay College of Criminal Justice for two years.

During his time in service, Pinch first pursued a career as a professional singer and then as a professional baseball player, where he played left field for the St. Louis Cardinal minor league organization.
HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. TOWNS. Mr. Speaker, Lena Scarborough-Gates was born in Brooklyn, New York. She attended Brooklyn College where she received her Bachelor’s of Arts Degree and Master’s of Arts Degree, both in Early Childhood Education. She was accepted into the Assistant Principal’s Internship program, sponsored by the Department of Education where she was awarded four supervisory licenses, Principal, Assistant Principal, Education Administrator and Early Childhood Supervisor. She began work on her doctorate degree at New York University.

Lena started her teaching career at the Emanuel Day Care Kindergarten at Emanuel Baptist Church. She then moved on to become Group Teacher at the Faith Hope and Charity #1. After a few years at Faith Hope and Charity #1, she began her career at the New York City Department of Education, Community School 21 as a kindergarten teacher. At Community School 21, she also served as a first grade teacher, Community School Coordinator and staff developer.

She furthered her professional career by moving to Public School 5 as an Assistant Principal. Later, she would become Principal of Public School 5.

Lena is a member of the Antioch Music Ministry. She currently serves as the chairperson of the Board of Trustees and as a member of the Antioch Community Service Corporation and founder of Caring Educators in Action. She is also a member of the Stuy Park Lion’s Club International.

Lena is a member of the Ebony Ecumenical Ensemble, which has afforded her to travel throughout the country. The Ebony Ecumenical Sings as one of its featured songs, a song written by Dr. James A. Forbes, senior minister of the Riverside Church called “Love My Children.” Lena, who has a passion for children, says that this song is a tribute to children everywhere.

Lena is married to James Gates and that union has been blessed with twin sons, Jaime Derell and Jarrarie Darryl.

Mr. Speaker, Lena Scarborough-Gates has dedicated her professional career to educating our children. As such, she is more than worthy of receiving our recognition. I hope that all of my colleagues will join me in honoring this truly remarkable individual.
REPUIDIATING ANTI-SEMITIC SENTIMENTS EXPRESSED BY DR. MAHATHIR MOHAMAD, OUTGOING PRIME MINISTER OF MALAYSIA

SPEECH OF
HON. ERIC CANTOR
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003

Mr. CANTOR. Madam Speaker, today I rise in support of 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, sponsored by my good friend Representative Roy Blunt.

Prime Minister Mahathir Mohamad has repeatedly crossed the line voicing offensive and inappropriate criticism of Jews. Instead of speaking about fighting terrorism or furthering peaceful cooperation, he chooses to preach hate. Mahathir’s verbal attacks on Jews lent credence and legitimacy to the hateful messages of terrorists.

Today the Congress will do the right thing by condemning Mahathir’s remarks and by making military aid to Malaysia conditional on religious freedom, including greater tolerance of Jews.

Malaysian Foreign Minister Syed Hamid Albar this afternoon complained that the religious freedom vote was an example of the United States trying to “discipline the world in their own mold.”

To the Malaysian Foreign Minister, I respond, you are absolutely correct. In America a person is not judged because of who they worship and they are not persecuted by the government for believing in the wrong God. For over 200 years America has been a beacon of hope and freedom for the rest of the world. We have stood the test of time; defending the rights of the individual to pursue happiness as they choose. America has an obligation to aid nations that further peace through tolerance and freedom, Malaysia needs to understand that.

Europe and the Organization of the Islamic Conference needs to issue a strong and real statement to aid nations that further peace through tolerance and freedom, Malaysia needs to unlearning.

For over 200 years America has been a beacon of hope and freedom for the rest of the world. We have stood the test of time; defending the rights of the individual to pursue happiness as they choose. America has an obligation to aid nations that further peace through tolerance and freedom, Malaysia needs to understand that.

American aid to help fight Islamic radicals is often offset by bribes soldiers take from terrorists to let them get away. Operatives affiliated with Al Qaeda have escaped from maximum-security military prisons, once using a helicopter.

If Washington and Manila are serious about eliminating Al Qaeda, the United States Special Forces should be given the assignment. The terrorist group consists of about 100 poorly trained amateurs. They would be no match for American soldiers already in the Philippines, but they are still eluding Filipino troops.

The Philippine Constitution does not allow for military aid to wages on Filipino soil. It does, however, allow the United States to come to the defense of the Philippines if the islands are attacked. Such an action can be justified in the present case because the terrorist groups get foreign money.

The mission could win support on Capitol Hill because the situation in the Philippines is precisely what the one in Iraq is not: there is a known enemy of limited ability and numbers on a few small, isolated islands with scant local support. There is minimal risk of escalation because the country is only about 5 percent Muslim. Perhaps more important, fellow Filipinos do not support Abu Sayyaf. Separatist Moros view them as a for-profit gang of thugs rather than a religious movement to defend Islam.

The provincial government and the Autonomous Region of Muslim Mindanao ordered his security force to cooperate in the hunt for Abu Sayyaf.

Unless the integrity of arms transfers to the Philippine military can be guaranteed, which is not likely, the United States should consider cutting off military aid to the Philippines and replacing it with economic support to help develop the poor Muslim islands in the south.

There has been some success in winning local “hearts and minds” already.

After building a few roads, bridges, sewers and wells last year, American soldiers were cheered by appreciative Muslims as the troops pulled out of Mindanao. More aid for infrastructure could go a long way to soothing centuries of resentment derived from being shut out of the national economy.

A reorientation of American aid would have the added benefit of helping bolster Philippine democracy. The military has instigated coups in every administration except one since 1965. Withholding support from the Philippine brass sends the message that Washington—the important ally—expects the military to keep its hands off the civilian institutions of government.

The White House should carefully assess what course will best help stabilize one of its most reliable allies in Asia. Despite the inevitable complications, the Philippines is worthy of American assistance.

TRIBUTE TO DICK AND DORIS ALAIMO

HON. JIM SAXTON
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to Dick and Doris Alaimo, who have been chosen as this year’s recipients of the Lloyd Ritter Community Service Award given by the Volunteer Center of Burlington County, NJ.

Dick and Doris are well-known throughout southern New Jersey for their outstanding history of community service and involvement in local organizations, and have been personal friends for many, many years, during which time we have worked together on many projects for the benefit of our community.

The Alaimos work in tandem with Memorial Hospital of Burlington County’s Foundation, the Burlington County Chapter of the Boy Scouts of America and the Rancocas Valley Education Foundation. They are chairman of the committee for Mount Holly Pro Day, an event which brings illustrious sports figures such as Mount Holly native Franco Harris into the limelight in effort to raise funds for local children in need, a cornerstone of much of their work through the years.

Successful in their careers, business, and life, Dick and Doris Alaimo have generously shared their success, time, money, energy and most importantly, care and concern with the community, always striving to make our hometown a better place to live and work.

It is for these reasons they have been selected to receive this prestigious award, and for these reasons I pay tribute to them today. May their legacy of volunteerism continue through their children, grandchildren, and the community they so love.

A FAIR FIGHT IN THE PHILIPPINES

HON. TOM FEENEY
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. FEENEY. Mr. Speaker, this Member commends to his colleagues the October 18, 2003, New York Times op-ed by Brett Decker titled “A Fair Fight in the Philippines.” I particularly note that American aid to the Philippine military has wound up on the black market or in the hands of Islamic radicals. America can’t pursue its War on Terrorism by practicing the old ways of doing business.

A FAIR FIGHT IN THE PHILIPPINES
(By Brett M. Decker)

President Bush is in Manila today to visit his ally in the war against terror, President Gloria Macapagal Arroyo of the Philippines. Mr. Bush has already announced some $340 million in aid to the Philippines this year, and President Arroyo said she plans to request additional military assistance to fight terrorism. There’s only one problem with this alliance.

American aid hasn’t improved the Philippine military so far, and in many ways it has benefited the Islamic militants it seeks to combat.

In August, Gen. Narciso Abaya, chief of the Philippine armed forces, made an alarming statement about the condition of his military: “I admit there is graft and corruption at all levels.” A significant share of the military budget is lost to graft. Selling military hardware on the black market is another common practice. Recent raids of bases of the separatist Moro Islamic Liberation Front have turned up caches of arms with Philippine military markings.

Even American assistance is siphoned away. Testimony before the Philippine Congress in the past several months revealed that American M-16’s provided to the Philippine armed forces have been recovered in camps belonging to Abu Sayyaf, a band of guerrillas and kidnappers. Assault rifles, grenade launchers and other American arms have been used against Philippine troops—the very troops United States funds are supposed to assist.

American aid to help fight Islamic radicals is often offset by bribes soldiers take from terrorists to let them get away. Operatives affiliated with Al Qaeda have escaped from maximum-security military prisons, once using a helicopter.

If Washington and Manila are serious about eliminating Al Qaeda, the United States Special Forces should be given the assignment. The terrorist group consists of about 100 poorly trained amateurs. They would be no match for American soldiers already in the Philippines, but they are still eluding Filipino troops.

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The White House should carefully assess what course will best help stabilize one of its most reliable allies in Asia. Despite the inevitable complications, the Philippines is worthy of American assistance.

IN HONOR OF THE SILICON VALLEY MANUFACTURING GROUP’S 25TH ANNIVERSARY

HON. ZOE LOFGREN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. LOFGREN. Mr. Speaker, my colleagues, Representative ESHOO and Representative HONDA and I rise to honor the Silicon Valley Manufacturing Group on its 25th anniversary, an organization that has effectively advocated on behalf of the residents and businesses of California’s Silicon Valley.
The Silicon Valley Manufacturing Group was founded by David Packard, who during the summer of 1977, asked a number of his fellow Silicon Valley CEOs to join him in building an organization that would create a proactive voice for Silicon Valley businesses. The formation in 1978 of the Manufacturing Group was the result of those discussions. The 33 charter members believed that business should work with the community and government to find innovative solutions to the challenges that faced their employees, including energy, transportation, education, and housing.

Today, the Manufacturing Group represents a variety of Silicon Valley businesses from software and manufacturing companies, to health care and education organizations. The 250 member-companies of the Manufacturing Group represent over 200,000 employees in the Silicon Valley.

During the quarter century since it was first founded, the Manufacturing Group has had a tremendous impact on the quality of life in Silicon Valley. They've brought leaders together to discuss the critical issues of our time and create solutions to these challenges. They've been at the forefront of the creation of affordable housing, improving and increasing transportation, and being key players in addressing California's energy concerns. Today, member-companies do their part by conserving through increased efficiency, and working with regulators and energy companies to find solutions to the State's energy problems.

The Manufacturing Group was a key force in the creation of the Housing Trust of Santa Clara County and played a major role in the Trust being able to raise over $20 million in its first 2 years. This funding, raised during a time when corporate donations began to wane, is an extraordinary achievement, producing housing for first-time home buyers and stands as a model in our country. With the Manufacturing Group’s leadership, the Housing Trust will return the investment ten-fold and assist families to realize their dream of homeowner-ship.

The Manufacturing Group’s track record on public transportation projects in the Valley has been extraordinary. Their first major initiative was in the early 1970’s when they launched the effort to win the approval of improvements of Highways 85, 237 and 101. The project funded by the Measure A half-cent sales tax proposal was completed ahead of schedule and under budg-et, and most importantly it was accountable to the people who passed it. The Manufacturing Group went on to spearhead other critical transportation measures in 1992, 1996, 2000 and 2002, all of which were successful, even after the law required a two-thirds voter approval.

With the outstanding leadership of Carl Guardino, the Manufacturing Group’s President and CEO, annual forums are held to predict economic and infrastructure trends and the examination of what inhibits producing and keeping jobs in Silicon Valley.

Mr. Speaker, we are exceedingly proud of the work and the achievements of the Silicon Valley Manufacturing Group. The organization has been a catalyst for important change and because of its leadership, the quality of life and the vitality of businesses have been enhanced.

We ask our colleagues to join us in saluting the Silicon Valley Manufacturing Group on its 25th anniversary and the great achievements they have brought about, making Silicon Valley known and admired around the world and a source of pride to our entire nation.

HONORING JOHN CALVELLI
HON. ELIOT L. ENGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. ENGEL. Mr. Speaker, it is a pleasure for me to announce that my former Administrative Assistant, John Calvelli, is turning 40. It is hard to believe that the lanky kid I met when I was now older than Jack Benny always claimed to be. I guess it makes me realize that I am that much older too, although I constantly remind John that he has more grey hair than me.

I won my first primary election for Congress on September 15, 1988, the day John turned 25. I told him ‘‘John, we’re going to Washington together’’ and indeed we did. During those first months in Washington, we would sometimes walk outside, gaze at the Capitol dome and say to each other, ‘‘Do you believe we’re really here?’’ I think that at 25, John was a little wiser than me, but he shared the bill with me and rapidly turned into one of the most effective and well-liked staffers in Washington. Everybody got to know John. Even as a young person, he had what we in New York call the best ‘‘gift of gab’’ I ever heard. He had that ability to talk to people about any issue and be effective. John always brought leaders together to discuss the critical issues of our time and create solutions to these challenges. They’ve been at the forefront of the creation of affordable housing, improving and increasing transportation, and being key players in addressing California’s energy concerns. Today, member-companies do their part by conserving through increased efficiency, and working with regulators and energy companies to find solutions to the State’s energy problems.

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I believe we would be hard-pressed to find someone more dedicated than Ms. Hillman to strengthening the voices of all citizens, including those who are disabled. I hope that Ms. Hillman and the rest of the nominees are confirmed by the full Senate before they adjourn for the year.

I urge full funding of the Help American Vote Act to ensure that the 2004 elections do not repeat the trouble-plagued elections of 2000. The act of voting for our government representatives is a sacred right of all Americans. It is our duty, through HAVA, to inspire representatives to use that right. President Lyndon Johnson most succinctly stated this duty as he spoke to Congress on March 15, 1965, to implemote them to pass the Voting Rights Act of 1965: “There is no duty which weighs more heavily on us than the duty we have to ensure that right (to vote).”

PERSONAL EXPLANATION

HON. MARK GREEN
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GREEN of Wisconsin. Mr. Speaker, I was absent from Washington on Tuesday, October 28, 2003, for official business. As a result, I was not recorded for rollcall votes No. 569, No. 570, No. 571, No. 572 and No. 573. Had I been present, I would have voted “aye” on rollcall No. 569, “aye” on No. 570 and no on rollcalls No. 571, No. 572 and No. 573.

PERSONAL EXPLANATION

HON. JOHNNY ISAKSON
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. ISAKSON of Georgia. Mr. Speaker, due to an illness yesterday I was unable to vote for the following rollcall votes and I have listed how I would have voted on them if I had been present.


PERSONAL EXPLANATION

HON. BETTY MCCOLLUM
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. McCOLLUM. Mr. Speaker, due to my participation in an International Relations Committee delegation to Iraq, I was unable to vote on rollcall 569 to 573. Had I been present, I would have voted the following:

On rollcall vote 569, the rule to recommit the Conference Report on H.R. 2115—the FAA Reauthorization Act, I would have voted “yes.”

On rollcall vote 571, the Marked motion to instruct conferees on H.R. 6—the Energy conference report, I would have voted “yes.”

On rollcall vote 572, the Woolsey motion to instruct conferees on H.R. 1308—the Tax Relief, Simplification and Equity Act, I would have voted “yes.”

On rollcall vote 573, the Brown motion to instruct conferees on H.R. 1, the Medicare Prescription Drug bill, I would have voted “yes.”

On rollcall vote 570, H.R. 2359—the Basic Pilot Extension Act of 2003, I would have voted “no.”

HAVA, the Basic Pilot Program currently enables participating employers in various industries to verify if employees are legally authorized to work in the United States. H.R. 2359 goes much further than a simple extension of the program.

In fact, this bill would enable states and local governments to use the databases to obtain citizenship and immigration status information on anyone—citizen or immigrant—for any purpose within their purview. This would expand the pilot program far beyond the context of employment and close to a national ID program with no privacy protections or safeguards against abuse by individuals within state and local governments.

This bill would also expand the availability of the program from just 6 states to all 50, without first addressing the many privacy and inaccuracy concerns in the current program. For example, the immigration databases used to verify work authorization are inaccurate and outdated. In some cases, workers with authorization have been fired because of incorrect data in the system. Moreover, some employers inappropriately used the databases to pre-screen employees, without providing an opportunity for the prospective employee to challenge the accuracy of the data.

Additionally, the House Judiciary Committee did not hold any hearings or mark-ups on the changes contained in H.R. 2359 despite the fact that this bill makes significant changes to existing law. For these reasons, I would have voted “no” on H.R. 2359, the Basic Pilot Extension Act of 2003.

I ask for unanimous consent that this be inserted into the RECORD.

25TH ANNIVERSARY OF NATIONS ASSOCIATION CHARITIES OF FORT MEYERS, FLORIDA

HON. PORTER J. GOSS
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. GOSS. Mr. Speaker, I rise today to recognize the 25th Anniversary of the Nations Association Charities of Fort Myers, Florida. This grass roots organization has been successfully meeting the needs of the poor and destitute in Southwest Florida, and for that we are grateful.

I have personally supported and followed the development of the Nations Association since its founding in 1978 by the Reverend Doctor Israel Suarez, his wife Ruth, and a small group of dedicated citizens. Israel and Ruth have unselfishly committed their lives to this labor of love, reaching out to the less fortunate in our area. They have touched hundreds of people with their kindness and caring, and they have inspired countless others to become involved in ministering to the poor.

The Nations Association provides emergency food, hundreds of hot holiday meals at Thanksgiving and Christmas for the homeless, free furniture for families in crisis, job placement services, Survival English classes, free immigration law services, and recreational activities for disadvantaged youth and many more services too numerous to name.

The Nations Association has touched the lives of over 11 thousand individuals with only a small paid staff and 144 volunteers who provide over 7000 hours of service in our community. In 1990 the Association was deservedly named the 276th Point of Light by President George H. W. Bush.

After 25 years, the Nations Association is going strong—its energies dedicated to making a real difference in the lives of hundreds of families and individuals. I urge all of us to continue to do our share in helping others.

TRIBUTE TO THE LATE CAPTAIN RICHARD C. YEEND, JR.

HON. JO BONNER
OF ALABAMA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to the service and sacrifice of Captain Richard C. Yeend, Jr. Capt. Yeend was serving as the co-pilot of an HH-3E, “Jolly Green Giant” helicopter sent to rescue a Marine pilot when the helicopter was shot down over Laos on June 9, 1988. Captain Yeend was listed as killed in action. He was recovered until his remains, along with the rest of the crew, were identified and returned home in September. He was buried September 28, 2003, thirty-five years after his helicopter was shot down.

Captain Yeend was raised in Mobile, Alabama, as the second of five children. He was a member of the Air Force ROTC at Auburn University and went on to flight school. After flying B-52s for several years, he volunteered for helicopter flight school as the Vietnam conflict escalated. Captain Yeend was deployed to Vietnam in February of 1968. His service to our country is evidenced by the awards he received posthumously, including the Silver Star, the Distinguished Flying Cross with two oak leaf clusters, the Air Medal with four oak leaf clusters, and the Purple Heart.

On October 11, 2003, on what would have been his 65th birthday, hundreds gathered at the Lower Alabama Vietnam Veterans Memorial at Battleship Memorial Park in Mobile to pay tribute to Captain Yeend, a man whose heroic efforts have not been forgotten. Retired Navy Rear Admiral Jeremiah Denton, who was a prisoner of war for over seven years during Vietnam, was the featured speaker. Admiral Denton praised Captain Yeend for his service and the Yeend family for its continued devotion to their country throughout their years of hardship, waiting while their loved one’s reamins were unaccounted for. He praised Captain Yeend along with all the Vietnam veterans in the audience for their service and assured everyone that their efforts were appreciated by all.

Captain Richard Yeend was a man whose honor and devotion to his family and his country were seen in his daily acts of courage and his willingness to take on heroic acts. A man of great character and respect, Captain Yeend
The centerpiece of the Quarter is a diamond, representing the Crater of Diamonds State Park near Murfreesboro. The Crater of Diamonds State Park is not only home to the largest diamond ever to be unearthed in the United States, but is also the eighth largest diamond deposit in the world, and the only diamond mine in the world where the public can search for diamonds. The Crater of Diamonds State Park is a leading source for Arkansas pride and tourism.

I am honored that the Arkansas Quarter is one that truly showcases the state and all it has to offer. I hope that everyone will take time to reflect upon Arkansas’s treasures and history, and join us in celebrating our new coin. I am also pleased to have the opportunity to properly recognize Ms. Dortha Scott before the United States Congress for her beautiful artwork that truly depicts our great state, which will be viewed by millions of Americans as they earn and spend the Arkansas Quarter.

HON. ROB SIMMONS
OF CONNECTICUT

Mr. SIMMONS. Mr. Speaker, I rise today to recognize 67 men and women who work at Electric Boat in Groton, Connecticut. These individuals have worked at Electric Boat for 40 or more years and due to their length of service have earned the title: Distinguished Shipbuilder.

When we think in terms of national defense these are not names that spring immediately to mind. But the work they have done and the things they have accomplished over the past four decades were essential to the United States winning the Cold War.

These men and women who helped design and construct the submarines that kept our Nation safe and free. Today they are designing and constructing a new generation of submarines that will help America win the war on terrorism.

These individuals have truly earned the title Distinguished Shipbuilder. Over the decades, Electric Boat has rightly won a reputation for constructing the best submarines in the world. For the men and women who design and build these incredibly complex ships, unsolvable problems have proven to be nothing more than tremendous opportunities to use their knowledge and skill.

Today Electric Boat continues to provide the United States Navy with the best ships ever to go to sea. They are an integral part of America’s national security strategy. As the crews of our submarines protect America’s freedom and security around the globe the men and women of Electric Boat can take great satisfaction in knowing that they are essential members of our national security team.

Those who expect to enjoy the blessings of freedom must engage in the hard work of defending it. In synchronization with the men and women in the Navy, the men and women at Electric Boat engage in that demanding work—and we in this chamber and everyone all across America benefit from their labor. When it comes to Electric Boat and the business of designing and constructing submarines, price is what you pay; value is what you get.

I am proud that Electric Boat is in my district—the Second District of Connecticut—and I am proud to share the names of these tireless and dedicated workers with you. They have provided the United States Navy with the most advanced, the most stealthy, the safest and the most lethal vessels ever to go to sea. I ask you to join me in recognizing their contributions to America.

HONORING MAJOR GENERAL PAUL D. MONROE, JR.

HON. GRACE F. NAPOLITANO
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mrs. NAPOLITANO. Mr. Speaker, it is with tremendous pride that I rise today to honor Major General Paul D. Monroe, Jr., the Adjutant General of the California National Guard for his 46 years of military service. He is a credit to his country and the National Guard. General Monroe’s leadership and vision have brought the Guard into the 21st century and made the 22,000 soldiers and airmen under his command better prepared than ever before.

Since September 11, General Monroe has mobilized nearly 10,000 soldiers and airmen to fight in the war on terrorism, both at home and abroad. The 5,000 National Guard troops employed soldiers and airmen to serve in Operation Enduring Freedom as well as in missions to secure our borders, bridges and airports.

General Monroe has also helped the Guard reconnect with the communities in California. During his tenure, the Guard has partnered with numerous agencies and organizations to provide successful anti-drug programs and youth education initiatives. The General truly understands the need to give back to the community, and along with his exemplary men and women who serve under him, have made invaluable contributions to cities and towns throughout California.

Recognizing the hard work and dedication of his soldiers and airmen, General Monroe has made the California National Guard an exemplary model for diversity and equal opportunity for guard members.

General Monroe began his military career as an enlisted soldier in the U.S. Army in 1957 and joined the California Army National Guard in 1961. He has served in Infantry, Signal, and Military Police Commands, and every level of command from platoon through brigade. He has been honored with over dozen awards for his service with our Armed Forces. Mr. Speaker, I ask my colleagues to join me in honoring a true American hero, Major General Paul D. Monroe, Jr. I extend my best wishes to the General, his wife Laura, their two children and their three grandchildren.

HON. HAROLD E. FORD, JR.
OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. FORD. Mr. Speaker, regrettably, I was not present for rollcall vote Nos. 569–573 because of a previously scheduled commitment to serve as co-chair and co-host of the National Civil Rights Museum’s annual Freedom Awards Banquet in my district in Memphis. The Freedom Awards Banquet was specifically scheduled to occur weeks after the target adjournment date.

Had I been present, I would have voted “yea” on rollcall vote Nos. 569, 571, 572, 573 and “nay” on rollcall vote 570.

FIFTY-FIRST ANNIVERSARY OF DETONATION OF THE WORLD’S FIRST THERMONUCLEAR DEVICE AT ENEWETAK ATOLL IN THE MARSHALL ISLANDS

HON. ED CASE
OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Mr. CASE. Mr. Speaker, this week we recognize the 51st anniversary of the detonation by our country of the world’s first thermonuclear device at Eniwetak Atoll in today’s Republic of the Marshall Islands. And as we pause to remember that event, it is also an opportune time for us to recall both the contributions of the people of Eniwetok and other atolls of the Marshall Islands and the security of our country and world, and the difficult legacy that and subsequent tests have left to their residents and so many others.

This story was told so well last year in an article in the Honolulu Weekly by Honolulu journalist Bev Keever entitled “Fallout: Eniwetok Atoll, 50 Years Ago This Week.” Subsequently recognized by the Society of Professional Journalists (Hawaii Chapter) for the work Ms. Keever did using the human impact of “Mike,” as the device was known, and counsels us to remember this legacy as we address crucial foreign policy challenges today and the future.

The text of Ms. Keever’s article follows:

FALLOUT: ENIWETOK ATOLL, 50 YEARS AGO THIS WEEK
(By Bev Keever)

[From the Honolulu Weekly, Oct. 30, 2002]

National and media anniversaries of signal events like Sept. 11 help to form the collective memory that, over time and across generations, shapes what a society remembers—or what it forgets.

An anniversary that serves as a news peg for journalists re-ignites powerful emotional connections for those who lived through the event, communication scholar Jill Edy writes, and may be even more influential for those who did not live through the event because it “creates a well-experienced” “Even more important, Edy notes, anniversary journalism “impacts whether we remember our past at all.”

A long-remembered part of the U.S. past occurred 50 years ago on Eniwetok atoll in the Marshall Islands, some 3,000 miles west of Honolulu. On Nov. 1, 1952, at 7:15 a.m., the U.S. government detonated the world’s first thermonuclear device, code-named “Mike,” the most powerful man-made explosion in history up to that time. In layperson’s terms it was the prototype for the “hydrogen bomb.” Mike unleashed a yield of 30.4 megatons, an explosive force 680 times more powerful than the atomic bomb that had annihilated Hiroshima in 1945 and the fourth most powerful “shot” of the 1,054 acknowledged nuclear tests in U.S. history. Ushering in the thermonuclear era, the Mike shot raised to a new level the capacity for mass destruction that had been inaugurated by humans with atomic weapons only seven years earlier. Because of this new dimension in the power of nuclear weapons, President Eisenhower observed in 1956, “Humanity has now achieved, for the first time in its history, the power to end its history.”

The Mike shot was controversial. Debate raged within the scientific community over perpetuating the so-called super bomb. One camp warned that the atmospheric chain-reaction from the thermonuclear explosion would illuminate the entire planet, Univer-

sity of Hawaii’s environmental consultant John Harrison reports. Calling such fears unfounded, those in the second camp, led by influential physicist Edward Teller, prevailed. The public was warned in advance about the shot for fear that it would influence the presidential election held just three days before. Sixteen days after the Mike shot, the U.S. government announced a thermonuclear experiment, but provided no details.

Mike was a proto-bomb; in fact, it was more like a building. Harrison explains as he studies a sepia-toned photograph of the cy-

lindrical Mike device, about 20 feet in height and 8 to 10 feet in diameter. Weighing 82 tons and standing vertically like the shiny innards of a giant thermos bottle, the device dwarfs a scrawny, shirtless man sitting in a chair, elbows cocked on his knees and staring at the ground on Elugelab island, Eniwetok atoll. The device was covered to large tubes to keep its contents of hydrogen fuel, liquid deuteride, refrigerated below its
boiling point of minus 417.37 degrees Fahrenheit.

More than 11,000 civilians and servicemen worked on or near Enewetak to prepare for the blast. The time the Enewetak by ship before the Mike device was remotely detonated from 30 miles away. The energy from the splitting of atoms with heavy nuclei like plutonium, with temperatures in the order of those at the core of the sun that were necessary to kick-start the fusion of the liquid deutide with other lightweight hydrogen nuclei, is far greater energy, so much that, as physicist Kosta Tsipis writes, "An exploding nuclear weapon is a miniature, instantaneous sun."

When the first island was the mysterious Euegalab, Researcher Leona Marshall Libby wrote at the time that Mike's detonation created a fireball that swooshed outward and upward for three miles in diameter and turned millions of gallons of lagoon water to steam. It left behind a 1.2-mile-wide crater and a deeply fractured reef platform. Harrison was surprised by the aftermath of that instant, adjacent thermonuclear test--the Ko-ao shot in 1946--the weakened seaward wall of the reef, and the crater carved away by the close-in reefs and "then all of a sudden into the deeper, more cloudy waters that delineated or that filled this enormous, enormous round circle that was the Mike crater."

Each time Harrison made that journey, he said, "It changed my life." He would struggle to understand the cataclysm of that instant that had transformed an island and then transformed the world. The effect of that nuclear weapon was far too powerful and unpredictable to be conducted on the U.S. mainland. The yield of what The New York Times described as the mightiest nuclear explosion detonated in continental United States, which was the explosion of the first hydrogen device in Nevada in 1952, was less than 1 percent of the magnitude of the most powerful Pacific test, later disclosed as the 15-megaton Bravo shot of 1954. In serving as sites for such immense infernos, these Pacific atolls and their people sacrificed for superpower status.

They contributed to the global rearmament of the Cold War, and the retreat from overt nuclear hostility during decades of the most dangerous period in history, the arms race of the Cold War. Recent revelations regarding the Cuban missile crisis are chillingly reflective of that nuclear age. Ten months after the Mike detonation, in August 1953, U.S. officials detected the first Soviet hydrogen explosion and announced the event to the Eisenhower administration and then set up a deliberate policy to confuse the public about the escalating order of magnitude between atomic and thermonuclear weapons components like plutonium.

The忘记 Guinea Pigs concluded, "The greatest irony of our atmospheric nuclear testing program is that the only victims of U.S. nuclear arms since World War II have been our own people."

The House report included in its conclusion--but only in an obscure footnote--mention of Pacific Islanders, whose ancestral homelands had sustained the most U.S. nuclear firepower.

A 33-YEAR EXILE

U.S. Pacific nuclear testing that began in July 1946 required U.S. officials to evacuate 170 Bikinians and 142 Enewetakse, thus transforming them into so-called "nuclear refugees," which the Bikinians remain today. The Enewetakse, when evacuated from their homeland in December 1947, were told by a senior official, Capt. John P.W. Vest, that they would be able to return to their atoll within three to five years. Instead, for the next 33 years they were exiled on the smaller, desolate Ujelang atoll, 150 miles to the southwest.

Other official U.S. commitments made then are contained in documents once classified as secret. Former Enewetakse Davor Pecv now uses in representing the islanders.

The Enewetakse would be accorded...
all rights which are the normal constitutional rights of the citizens under the Constitution, but will be dealt with as wards of the United States for whom this country has specifically agreed, according to a memorandum from the Atomic Energy Commission attached to President Truman's Directive of Nov. 25, 1947, to the Secretary of Defense.

The 142 Enewetakese (and their descend-ants) on Ujelang suffered greatly because of logistical problems, inclement weather, burdensome import costs, and the island's desola-tion. Even the Department of Interior, in a letter dated Jan. 13, 1978, acknowledged that during their 33-year exile on Ujelang the Enewetak Islanders suffered great starvation, including periods of near starvation."

An anthropologist who lived among them on Ujelang and spoke Marshallese, Laurence M. Carucci, wrote that the stories of this pe-riod told to him over and over by elders focused on famine and hunger, near starvation and death from illness, poor fishing condi-tions, epidemics of polio and measles and rat infestation.

One Enewetake woman in her 40s told Carucci in 1978 about these difficult days. She and her family members were being "stuck out like they were bloated and you would never think they were hungry," but in fact they were. Then, she continued: "They would get hot fevers, then cold chills; hot fevers, then cold and sweaty. And then, in just a moment, they would be gone. Dead, they would be gone, again. Their life was gone. And, in those days, the wailing across the village was constant."

Their hardship was so severe that in 1969 they even refused a supply ship when it de-manded they be returned home. Their ances-tral atoll was too contaminated with radio-activity for their return, but the U.S. govern-ment did begin an extensive cleanup and resettlement costs continue to mount, and Marshallese want more U.S. funding.

The Marshallese prospects for immediate help from U.S. officials in Washington seem dim, congressional sources in Washington, D.C., told the Weekly. Enewetak's $386 million compensation for increased U.S. medical and other assistance to meet the mounting costs of damages to persons and property presumed to be caused by U.S. nuclear testing. That petition is still being studied by the Bush administration, and no congressional measure on it is pending.

FROM CRATER TO CRYPT

Much of the plutonium-contaminated soil removed in the operation to clean up Enewetak was dumped into one of the atoll's smaller craters on Runut island. This crater was created May 5, 1958, during the 18-kil-o- ton test shot code-named Cactus. The cra-ter, 30 feet deep and 350 feet wide, was filled with about 111,000 cubic yards of radioactive soil and other materials and then entombed beneath a dome of 358 concrete panels, each 18 inches thick. Researchers in "Atomic Audit" report that the unprecedented job, completed in 1980, took three years and about $239 million.

Soon afterward, a delegation from the Na-tional Academy of Sciences inspected the dome and, John Harrison recalls, issued a re-port noting that the concrete panels of the dome, specifically that the predicted longevity of the containment structure was at best 300 years. Yet, the plutonium-laced debris encased in the dome will remain radioactive for 500,000 years and hazardous to humans for at least half that time.

The Runut island entombment is of special interest because a nuclear-waste crypt is now being finished 800 miles from Honolulu to bury plutonium-laced materials under a cap of coral soil at Johnston island, where the U.S. military is building a facility for nuclear-tipped missile shots in 1962 showered the atoll and waters with radioactive debris.

From test site to dump site, the Runut island crypt eerily symbolizes the legacy of the thermonuclear age that has caused the Marshallese to suffer disproportionately in adverse health, environmental and cultural conditions.

The 50th anniversary of the Mike shot and its aftermath begs for reflection from a na-tion so riveted on a purported nuclear threat in the Middle East and North Korea that it ignores the era of mass destruction intro-duced by the United States on Enewetak with the world's first thermonuclear explo-sion.

INTRODUCTION OF NEW PARTNER-SHIP FOR HAITI ACT OF 2003

HON. BARBARA LEE
CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 29, 2003

Ms. LEE. Mr. Speaker, today I am intro-ducing H.R. 3386, The New Partnership for Haiti Act of 2003, which will help Haitians overcome the many social, economic, and physical challenges currently facing the coun-try.

Today in Haiti only 45% of Haitians have access to safe water and 28% have access to sanitation. Seventy-six percent of Haiti's chil-dren under the age of five are overweight, or suffer from stunted growth and 65% of Haitians are undernourished. Eighty percent of the population lives in abject poverty and the unemployment rate is estimated to be around 60%.

My longstanding interest in ending the AIDS pandemic has brought focus on Haiti, with 90% of all HIV/AIDS cases in the Caribbean. As we combat global HIV/AIDS, malaria and tuberculosis, maternal and child mortality, and many other life threatening diseases, we must address the long-term effect of dilapidated physical and health infrastructure and abject poverty throughout the world, including in Haiti.

My bill, the New Partnership for Haiti Act of 2003 offers a comprehensive plan for future engagement between the U.S. and Haitian Government. This legislation partners Haitians and Americans together to execute an environ-mentally sound approach to rebuilding Haiti. Its major provisions are aimed at deve-loping basic sanitation, water, and other health infrastructures in Haiti.

The New Partnership for Haiti Act would bring the U.S. Army Corp of Engineers to train and educate Haitians on how to rebuild, pave, and maintain roads to provide access to rural and urban areas and to health clinics. It will commision environmental impact studies for these projects, focusing on long term, environ-mentally sound solutions—not short term rem-edies.

Haiti needs assistance in addressing its long-term health infrastructure development. The most basic of these needed development challenges is water. How can Haiti begin to combat its enormous health problems without basic clean and safe water?

Haiti's water quality is life-threatening. In a study released in May of 2003, Haiti ranked last in the world for water quality. The New Partnership for Haiti Act will provide funds and expertise through USAID to partner with Haitians on rebuilding sanitation, water purification projects, and education for Haitians on how to maintain these systems themselves in the fu-ture. This bill will help Haitians build and maintain safer, quality sewage systems and safe water delivery for both urban and rural communi-ties throughout the country.

The New Partnership for Haiti Act will start a pilot program for American Health Profes-sionals and also Engineers who are interested in going to Haiti and helping with the develop-ment process.

It is my hope that a transfer of knowledge from U.S. professionals in the fields of health and engineering to Haitians will ensure long term development and guarantee the success.
of the programs similar to the success of the Global Fund and other international initiatives. By widening the knowledge base of non-governmental organizations and professionals in Haiti, the U.S. will take advantage of a unique opportunity and obligation towards Haiti’s future.

We worked together to get the humanitarian loans, which had been held up by the Inter-American Development Bank officially released on May 9, 2003. It is my hope that we can continue to push for the full release of these loans and the potential for future humanitarian grants through the IDB. I also believe we must move forward on establishing a health infrastructure for efficient delivery of these health and social sector funds.

Today I submit this legislation, and thank all of my original cosponsors: Reps. DONNA CHRISTENSEN, ELIJAH CUMMINGS, BENNIE THOMPSON, AL WYNN, DONALD PAYNE, SHEILA JACKSON-LEE, JUANITA MILLENDER-MCDONALD, ROBERT WEXLER, JOHN CONYERS, CORRINE BROWN, and MAJOR OWENS.

I look forward to the support of my colleagues and the Administration.

PRESCRIPTION DRUGS

HON. BERNARD SANDERS
OF VERMONT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. SANDERS. Mr. Speaker, I want to take this opportunity to share with you the attached letter, which I recently received from the Vermont Association of Hospitals and Health Systems in support of my and my colleagues’ legislative efforts to enable Americans to access prescription drugs from Canada. I would like this letter included in the CONGRESSIONAL RECORD.

VERMONT ASSOCIATION OF HOSPITALS AND HEALTH SYSTEMS,
Montpelier, VT, September 29, 2003
The Honorable BERNARD SANDERS,
House of Representatives,
Rayburn Building, Washington, D.C.

Dear CONGRESSMAN SANDERS: On behalf of the hospitals in Vermont, I am writing to extend our support for your efforts to allow for the re-importation of prescription drugs from Canada. As you well know, access to safe, affordable medication is an issue for many Americans. In our rural state, patients of all ages travel to Canada to purchase FDA-approved, less expensive medications. That option should be available to all patients seeking more affordable prescription drug coverage.

Our hospitals are committed to ensuring that our patients have access to affordable, quality healthcare. We applaud your efforts and the efforts of your colleagues on this very important issue.

Sincerely,

THOMAS HUEBNER,
Board Chair,
M. BETRICE GRAUSE, President & CEO.

PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR.
OF WASHINGTON
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Mr. NETHERCUTT. Mr. Speaker, on October 28, 2003, I was unavoidably detained for rollover vote nos. 569–573.

Had I been present I would have voted as follows: On rollover 569; “yea” on rollover 570; “yea” on rollover 571; “yea” on rollover 572; “nay”; and on rollover 573, “nay.”

PERSONAL EXPLANATION

HON. LORETTA SANCHEZ
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, October 29, 2003

Ms. SANCHEZ of California. Mr. Speaker, on October 21, 2003, I was unavoidably detained due to a prior obligation.

I request that the CONGRESSIONAL RECORD reflect that had I been present and voting, I would have voted as follows: rollover no. 566: “no” (on H. Res. 407); rollover no. 567: “yes” (on the Obey motion to instruct conferences); and rollover no. 568: “yes” (on H.J. Res. 73).

EXTENDING AUTHORITY FOR CONSTRUCTION OF MEMORIAL TO MARTIN LUTHER KING, JR.

SPEECH OF

HON. ELIJAH E. CUMMINGS
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003

Mr. CUMMINGS. Madam Speaker, I rise to thank my colleagues for their support of the “Martin Luther King, Jr., National Historic Site Land Exchange Act,” H.R. 1616 and the bill to extend the authority for the construction of a memorial to Martin Luther King, Jr., S. 470. These bills extend the authority for and make possible the construction of a national memorial commemorating the achievements of the late Dr. Martin Luther King, Jr. and his commitment to the struggle of civil rights for all Americans.

Dr. King dedicated his life to the realization of full equal and civil rights for all Americans irrespective of race, ethnicity, gender, and sexual orientation. He stood on the front lines in the struggle against social injustice, discrimination, and inequality, often at great risk to himself. Despite numerous death threats, Dr. King never wavered in that commitment.

Madam Speaker, the Lewis and Sarbanes bills are a win-win situation for all parties involved. The National Park Service currently owns a vacant lot that does not have any significant historic value. The City of Atlanta would like to acquire this land for the sole purpose of encouraging commercial development within its city limits. In addition, the land on which the National Historic Site Visitor Center and Museum currently sit is land-locked and lacks adequate emergency access. Exchanging this land with the Martin Luther King, Jr. National Historic Site for property in which the National Park Service could establish easy access to the Visitor Center and Museum would be mutually beneficial to both parties. This would simultaneously resolve the National Park Service’s access issue and give the City of Atlanta much needed commercial space.

Madam Speaker, once again I am proud to support both bills the Martin Luther King, Jr., National Historic Site Land Exchange Act and the bill to extend the authority for construction of the MLK Memorial. I would like to give a special thanks to my colleagues Mr. Lewis and Senator SARBANES for their leadership in sponsoring these important pieces of legislation and in helping to keep the dream alive.

HONORING BILL AND SUE GROSS

HON. CHRISTOPHER COX
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. COX. Mr. Speaker, I rise today on behalf of the Orange County Department of Education to thank two outstanding individuals, Bill and Sue Gross, whose unparalleled commitment to teachers in California is an inspiration in the field of education.

Each year more than fifty public, private, and community college teachers from Orange County, California, are recognized for their outstanding contributions and dedicated efforts in the field of education. The Orange County Department of Education, led by Superintendent William M. Hrabernohl, coordinates the annual selection and recognition of these teachers.

During the last dozen years, the Teachers of the Year program has had the additional support and generosity of two local residents, Bill and Sue Gross. In 1991, the Grosses established the Dr. James Hines Foundation in memory of a teacher who had positively influenced Sue Gross’ life. In the ensuing 12 years, through the Foundation, the Grosses have given over $1 million in cash awards to these exemplary teachers. This year, as an added surprise, Bill and Sue Gross invited all one hundred 2003 and 2004 Teachers of the Year nominees to be their guests on a 10-day cruise to Alaska.

Orange County residents Bill and Sue Gross are champions of teaching excellence, deserving of special commendation and recognition by the Congress of the United States of America. Today, I ask my colleagues to join me in honoring Bill and Sue Gross for their years of commitment to California’s educators.

92ND NATIONAL DAY CELEBRATION OF TAIWAN

HON. SHELLEY BERKLEY
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Ms. BERKLEY. Mr. Speaker, I rise today to celebrate the 92nd National Day celebration of Taiwan. The Republic of China on Taiwan is a flourishing democracy of 23 million citizens who like us, cherish their constitutional guarantees of freedom and human rights.

Over the years, Taiwan has transformed itself from a one-party dictatorship to a vibrant
Wellstone was not ashamed of voting his conscience, even if this meant that he would often stand alone. For this, Senator Wellstone won the accolades of his colleagues on both sides of the aisle.

Mr. Speaker, as the son of immigrant Russian Jews, Paul Wellstone lived in the promised land of America. Prior to his entry into the United States Senate, this plain-spoken man was a devoted and beloved associate professor of political science at Carleton College in Northfield, Minnesota, where he taught for 21 years. And although diagnosed with a mild case of multiple sclerosis, Paul did not let it incapacitate him. He continued to fight for those issues dear to his heart: affordable universal health care, mental health parity, family leave, veterans affairs, and environmental protection.

Mr. Speaker, I am truly blessed to have known Paul Wellstone. On that fateful day 1 year ago on October 25, 2002, I lost a beloved friend and colleague and the world lost a fearless and selfless public servant and tireless advocate for justice. He has left a deep void in this institution and is truly missed. He is often remembered for a particular saying that ‘people yearn for a politics of the center’, not ‘the center’ so widely discussed by politicians and pundits in Washington, but, rather, a politics that speaks to the center of people’s lives. On this 1-year anniversary of the death of this courageous and principled man I urge my colleagues to commit themselves to his legacy and fight for the things to which Paul Wellstone dedicated his life. I know I will.

A TRIBUTE TO CHIEF OF POLICE ELVIN G. MIALI ON THE OCCASION OF HIS RETIREMENT

HON. CHRISTOPHER COX
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. COX. Mr. Speaker, I rise today to pay tribute to an outstanding official of the city of Fountain Valley, California. Chief of Police Elvin G. Miali has devoted almost four decades of his life in service to his community and to his country. Chief Miali has excelled in his many law enforcement assignments over the years beginning in the city of San Gabriel and culminating in the city of Fountain Valley. The experience, commitment and professionalism which Chief Miali brings to the leadership of a major law enforcement organization is highly respected and commended by his peers throughout Orange County and the State of California. Setting high standards for himself and all his department personnel and staff, he is known for achieving exceptional results under the most demanding of situations. The trademark of his leadership is “first class, the first time, every time.”

Chief Miali began his law enforcement career on February 27, 1967, with the city of San Gabriel, California, where he rose through the ranks and achieved the position of Captain. During this time his assignments included the Detective Bureau for 12 years, six of which dealt with robbery and homicide. In August 1986, he was selected Chief of Police for the Fountain Valley Police Department. His community contributions during 17 years as Chief of Police include active efforts to combat drug abuse, child abuse, and drinking and driving, as well as promoting charitable efforts such as helping underprivileged children at Christmas. Before it had a name, Chief Miali introduced the Community-Oriented Policing philosophy.

A most distinguished police officer with an undergraduate degree in Police Science, a master’s degree in Public Administration, and a graduate of the POST Command College and the FBI Law Enforcement Executive Development Program, Chief Miali is known throughout Fountain Valley and Orange County as one of the city’s principal ambassadors. Chief Miali, together with his wife Charli and their two children, Elvin and Carla, are proud citizens of Fountain Valley, a city which can rightfully look to Chief Miali for making its motto “A Nice Place to Live” happen every day.

Mr. Speaker, as Chief Miali completes his 36 years of devoted public service in law enforcement, and sets his course for new and ever challenging community involvement, I am sure my colleagues will join me in saluting him and thanking him for the exemplary job “well done” — for Fountain Valley, for California, and for America.

SYRIA ACCOUNTABILITY ACT

HON. SHELLEY BERKLEY
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Ms. BERKLEY. Mr. Speaker, I rise today in strong support of the Syria Accountability and Lebanese Sovereignty Act. This important legislation takes a strong and decisive stand against international terrorism. It also demonstrates the firm resolve of the United States in opposing those who support terrorism or provide funding and safe harbor for its perpetrators.

Syria continues to be a major sponsor of international terrorist groups, and has been listed by the State Department as a sponsor of terrorism since the inception of the list in 1979. Numerous terrorist groups, including Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and at least seven more, have headquarters in Damascus. In addition to offices, these groups maintain training camps and other facilities on Syrian territory. Hisbollah, referred to referred to as the “A-team of terrorism” by Deputy Secretary of State Richard Armitage, operates in areas of Lebanon occupied by Syria and receives supplies from Iran through Syria. In doing so, Syria is in clear violation of UN Security Council Resolution 1929 which directs all states to “refrain from providing any form of support” for terrorism. Furthermore, their attacks on Israel, launched with the acquiescence of the Syrian government, harm innocent civilians and risk leading to a wider regional conflict.

In addition to its harboring of international terrorism, Syria’s 20,000 strong occupation force has continued to occupy Lebanese territory, denying Lebanon its independence and political sovereignty. This occupation has also prevented Lebanon from fulfilling its obligation under the Security Council Resolutions 425 and 520 to deploy its troops to southern Lebanon. As a result, southern Lebanon is under the control of the terrorist group Hisbollah.
TRIBUTE TO LT. COL. STEPHEN TWITTY

HON. JAMES E. CLYBURN
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. CLYBURN. Mr. Speaker, I rise today to honor Lt. Col. Stephen Twitty, who led the only infantry battalion—1,000 soldiers strong—in the initial attack on Baghdad, Iraq, this past April. His 15th Infantry Regiment of the 3rd Battalion was fearless in the face of the heaviest fighting of the campaign and successfully completed their mission.

Lt. Col. Twitty witnessed casualties among his troops, and continued to lead his soldiers through the perils of suicide bombers, snipers, rocket-propelled grenades and a variety of other dangerous assaults. Later he had to keep his troops focused on their mission after the death of NBC reporter David Bloom, who was embedded with his regiment. He faced many potentially fatal situations by being on the frontline of American servicemen. As a result of his gallantry, he received the U.S. Army’s third highest medal, the Silver Star, and is most likely on his way to becoming a colonel.

Lt. Col. Twitty is a native of Chesnee, SC, and graduated with a bachelor’s degree in criminal justice from South Carolina State University in Orangeburg, my alma mater, where he will serve as a grand marshal of this year’s Homecoming Parade. He is in good company among the military ranks of SCSU graduates. The University currently has four alumni who are generals on active duty, one of whom was just named Commanding Officer of Fort Jackson.

Lt. Col. Twitty later received a master’s in public administration from Central Michigan University. He has been stationed in both Belgium and Germany but now resides in Fort Stewart, GA.

This tour of duty isn’t Lt. Col. Twitty’s first time in combat. He is a veteran of Operation Desert Storm, in which he was a member of the first infantry division to cross the Kuwait-Iraq border into enemy territory. He has also received decorations like the Legion of Merit and Bronze Star for his service to his nation in the most trying of situations. His interests in the military date back to his experiences in South Carolina State’s Reserve Officer Training Corps. He now has aspirations to attend the Army War College next year.

Mr. Speaker, I ask you and my colleagues to join me in commending Lt. Col. Stephen Twitty for his extraordinary dedication and his exemplary military service. He is an inspiration to the soldiers he commands and the next generation of soldiers to follow.

NATIONAL BREAST CANCER AWARENESS MONTH

HON. NITA M. LOWEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Ms. LOWEY. Mr. Speaker, this year an estimated 40,000 mothers, sisters, daughters, friends and loved ones will die of breast cancer, and more than 210,000 new cases will be diagnosed. Throughout the month we have remembered those that have fallen victim to this disease, celebrated those who have survived it, raised awareness about the progress we’ve made, and called on scientists to aggressively continue the search for a cure.

Today, Democrats and Republicans, men and women are on the House floor to say—while we have made progress, further gains require a sustained commitment to expanding the national investment in cancer research, prevention, treatment, and outreach programs.

It is hard to believe, but when I was first appointed to the Appropriations Committee in 1991, the Federal government was spending just $133 million on breast cancer each year. That investment has increased dramatically—to more than $1.3 billion—between spending at the National Institutes of Health and Department of Defense.

This is remarkable, but all of the research in the world won’t make a difference unless it is put into practice. That is why we must continue to invest in the Centers for Disease Control’s Breast and Cervical Cancer screening program and better mammogram training and oversight to improve radiologists’ ability to interpret mammograms.

We must also ramp-up efforts to find new and superior ways to detect breast cancer and study the relationship between breast cancer and the environment.

Mr. Speaker, I believe, while the government cannot cure cancer, it can put the resources in the hands of scientists who will. Together—along with advocates, survivors, scientists, and doctors—we can go the distance and stop this disease.

TITLE II—COMPACTS OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS

SPEECH OF
HON. DIANE E. WATSON
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 28, 2003

Ms. WATSON. Madam Speaker, President Clinton gave me the privilege to represent the American people as Ambassador to the Federated States of Micronesia. I have a deep respect for the Island nations, and I am pleased that we have passed the new compact legislation out of the House.

Although most of the contentious issues in the compact have been addressed, the funding allocated for education concerns me. The RMI and FSM children have only just begun to benefit from the establishment of an integrated education system. I am very pleased to know that authorization for educational programs is included in the bill. In my former profession of teaching I have witnessed the impact of early structured education. Young students are much better equipped to enter the educational system when they are exposed to education at an early age. The educational appropriations that Chairman REGULA has offered in the bill is critical to keep effective programs in place.

I also strongly support those provisions in this compact that provide for continued Pell grant eligibility for the FAS. It will bolster the ability of the FAS to cultivate education. The elimination of Pell grant assistance would have decimated the college system in the FAS altogether. A large portion of the operating funds for the College of Micronesia are obtained through Pell grants.

One important area that I would like to point out is the reinstatement of FEMA assistance. It has been placed back into the Compact for infrastructure purposes and major catastrophes. USAID is not equipped to deal with all of the problems that arise on small islands nor do they have the ready response to help in a timely fashion. As we move forward with our unique relationship with the FAS I hope the U.S. Congress will be supportive and receptive to the needs of our friends.

In conclusion, I urge my colleagues to understand the importance of the FAS. I support this bill and look to endorse the final product as the other body considers the Compact.

HONORING GEORGE S. POFOK
HON. DENNIS J. KUCINICH
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of George S. Pofok, upon the occasion of his retirement from Cleveland Public Power (CPP).

George Pofok has spent the last 30 years in service to the city of Cleveland. Mr. Pofok started his career as an electrical engineer, and rose to become company’s commissioner. During Mr. Pofok’s tenure as the commissioner from 1985–1995, he was able to initiate one of the most productive periods of growth for Cleveland’s power. He helped build the customer base from 50,000 to 80,000, as well as increasing the company’s revenue to $130 million per year. These strategies have left a legacy of high growth for the company, and low costs to customers. Since 1985, customers of Cleveland Public Power have saved more than $320 million.

Mr. Pofok leaves a great legacy, none more important than the continuation of the tradition and strengthening of the exercise of public power in the city of Cleveland.

Mr. Speaker and colleagues, please join me in honor and recognition of George S. Pofok.
for his dedication to Cleveland Public Power, and the welfare of the city of Cleveland.

HONORING CHIEF EDWARD J. CHAVEZ
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor Mr. Edward J. Chavez who is retiring as the Chief of Police for the city of Stockton, California. It is truly an honor to recognize all of his achievements as a dedicated law enforcement officer in our community. He has served the people of my district with integrity and he will truly be missed.

Chief Chavez has shown his dedication to serving our community and our country in countless ways. As a member of the U.S. Air Force from 1962–1970, Mr. Chavez demonstrated this very commitment.

Through hard work and a commitment to furthering his education, Mr. Chavez earned a Bachelor of Arts from California State University, Sacramento, a Master of Science from California State Polytechnic University, Pomona, and graduated from the prestigious Federal Bureau of Investigation Academy.

In 1973, Chief Chavez became a police officer and his prestigious career began. As a leader in the Department, Edward Chavez rose through the ranks to become a Captain and Deputy Chief of Police in 1990, and finally to become the Stockton Police Department’s Chief of Police in 1993. As a role model to law enforcement officials, Chief Chavez has served the city of Stockton with the utmost respect and honor for residents and coworkers alike.

Not only has Chief Chavez been a leader to the Stockton Police Department, but has served his community by being a member of over twenty civic and professional organizations. He has been affiliated with the Board of Trustees for Humphreys College School of Law, Stockton Rotary, Hispanics for Political Action, Greater Stockton Chamber of Commerce, International Association of Chiefs of Police, California Peace Officers Association, and on the selection committee for the Stocktonian of the Year.

Mr. Speaker, the city of Stockton has been greatly strengthened by the effort and dedicated service of Chief Chavez. I ask my colleagues to help honor Chief Edward J. Chavez today for his service to this great Nation. It is a privilege to represent him, and to call him my friend.

PERSONAL EXPLANATION
HON. LOIS CAPPS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, October 30, 2003

Mrs. CAPPS. Mr. Speaker, on October 17, 2003, I submitted a personal explanation for rollcall votes No. 553–No. 561. In that personal explanation, I inadvertently listed incorrectly how I would have voted on rollcall No. 558, rollcall No. 560 and rollcall No. 561. I respectfully request that the RECORD now reflect how I would have voted on the following rollcall votes:

Rollcall No. 558—"yes"; rollcall No. 560—"no"; and rollcall No. 561—"yes."
Daily Digest

HIGHLIGHTS

Senate and House passed H.J. Res. 75, Continuing Appropriations.

Senate passed H.R. 1904, Healthy Forest Restoration Act.


The House agreed to the conference report on H.R. 2115, Flight 100—
Century of Aviation Reauthorization Act.

The House agreed to the conference report on H.R. 2691, Department

The House agreed to the conference report on H.R. 3289, Supplemental

Senate

Chamber Action

Routine Proceedings, pages S13535–S13612

Measures Introduced: Seven bills and two resolutions were introduced, as follows: S. 1798–1804, S. Res. 255, and S. Con. Res. 78. (See next issue.)

Measures Reported:

S. 1663, to replace certain Coastal Barrier Resources System maps. (S. Rept. No. 108–179)

H.R. 274, to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge. (S. Rept. No. 108–180)

S. 1395, to authorize appropriations for the Technology Administration of the Department of Commerce for fiscal years 2004 through 2005, with amendments. (S. Rept. No. 108–181)

S. 1402, to authorize appropriations for activities under the Federal railroad safety laws for fiscal years 2004 through 2008, with amendments. (S. Rept. No. 108–182)

S. 1720, to provide for Federal court proceedings in Plano, Texas, with an amendment in the nature of a substitute.

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, with an amendment in the nature of a substitute and with an amended preamble. (See next issue.)

Measures Passed:

Continuing Appropriations: Senate passed H.J. Res. 75, making further continuing appropriations for the fiscal year 2004, clearing the measure for the President. (See next issue.)

Healthy Forests Restoration Act: By 80 yeas to 14 nays (Vote No. 428), Senate passed H.R. 1904, 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, after agreeing to the committee amendment in the nature of a substitute, and taking action on the following amendments proposed thereto: Pages S13600–(continued next issue)

Adopted:

Bingaman Amendment No. 2036, to require collaborative monitoring of forest health projects. Page S13609

Bingaman Amendment No. 2042, to require best-value contracting criteria in awarding contracts and agreements. (See next issue.)
Cochran Amendment No. 2046, to make certain improvements to the bill.  
Notwithstanding passage of the bill, Cochran Amendment No. 2046 was subsequently modified.  

(See next issue.)

Rejected:
Bingaman Amendment No. 2035, to require the treatment of slash and other long-term fuels management for hazardous fuels reduction projects. (By 58 yeas to 36 nays (Vote No. 422), Senate tabled the amendment.)  
Leahy Amendment No. 2039, to remove certain provisions relating to administrative and judicial review. (By 62 yeas to 33 nays (Vote No. 423), Senate tabled the amendment.)  
Boxer Amendment No. 2043, to increase the minimum percentage of funds allocated for authorized hazardous fuels reduction projects in the wildland-urban interface. (By 61 yeas to 34 nays (Vote No. 424), Senate tabled the amendment.)  
Murray Amendment No. 2030, to ensure protection of old-growth stands. (By 62 yeas to 32 nays (Vote No. 425), Senate tabled the amendment.)  

(See next issue.)

Cantwell Modified Amendment No. 2038, to require the Comptroller General to study the costs and benefits of the analysis of alternatives in environmental assessments and environmental impact statements. (By 57 yeas to 34 nays (Vote No. 426), Senate tabled the amendment.)  
Harkin Amendment No. 2045, to provide authority for title I, relative to hazardous fuels reduction on federal land. (By 61 yeas to 31 nays (Vote No. 427), Senate tabled the amendment.)  
During consideration of this measure today, the Senate also took the following action:
By 36 yeas to 60 nays (Vote No. 421), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Bingaman Amendment No. 2031, to provide the Secretary of Agriculture with the authority to borrow funds from the Treasury to pay for firefighting costs that exceed funds available and to provide funding to conduct hazardous fuels reduction and burned area restoration projects on non-Federal lands in and around communities. Subsequently, the point of order that the amendment was in violation of section 302(f) of the Congressional Budget Act of 1974, was sustained, and the amendment thus falls.  

(See next issue.)

Foreign Operation Appropriations Act: Senate passed 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:  
Adopted:
By 89 yeas to 1 nay (Vote No. 429), DeWine Amendment No. 1966, to increase assistance to combat HIV/AIDS.  
McConnell Amendment No. 2049, to make certain technical corrections and to provide for international military training assistance for Indonesia.  
McConnell (for Stevens) Amendment No. 2050, to provide assistance for democracy programs in Russia.  
McConnell Amendment No. 1970, to express the sense of the Senate on Burma.  

(See next issue.)

Rejected:
By 45 yeas to 47 nays (Vote No. 430), Feinstein Amendment No. 1977, to clarify the definition of HIV/AIDS prevention for purposes of providing funds for therapeutic medical care.  
By 41 yeas to 51 nays (Vote No. 432), Bingaman/Daschle Amendment No. 2048, to make an additional $200,000,000 available for the Global AIDS Initiative and reduce the amount available for Millennium Challenge Assistance by $200,000,000.  

(See next issue.)

During consideration of this measure today, the Senate also took the following action:
By 42 yeas to 50 nays (Vote No. 431), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 302(f) of the Congressional Budget Act of 1974, with respect to Durbin Amendment No. 2047, to increase assistance to combat HIV/AIDS. Subsequently, the point of order that the amendment was in violation of section 302(f) of the Congressional Budget Act of 1974, was sustained, and the amendment thus falls.  

McConnell (for Kennedy) Amendment No. 2023, to provide for the disclosure of prices paid for HIV/AIDS medicines in developing countries, previously agreed to on Tuesday, October 28, 2003, was modified.  

(See next issue.)

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators McConnell, Specter, Gregg, Shelby, Bennett, Campbell, Bond, DeWine, Stevens, Leahy, Inouye, Harkin, Mikulski, Durbin, Johnson, Landrieu, and Byrd.  

A Tribute to Survivors: Committee on the Judiciary was discharged from further consideration of S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to “A Tribute to Survivors” at the United States Holocaust Memorial Museum, and the resolution was then agreed to.  

(See next issue.)
Climate Stewardship Act: Senate continued 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, taking action on the following amendment proposed thereto:

Rejected:
By 43 yeas to 55 nays (Vote No. 420), Lieberman/ McCain Amendment No. 2028, in the nature of a substitute.
A unanimous-consent agreement was reached providing that the bill be re-referred to the Committee on Environment and Public Works.

Interior Department Appropriations—Conference Report: A unanimous-consent agreement was reached providing that on Monday, November 3, 2003, at a time determined by the Majority Leader, after consultation with the Democratic Leader, Senate begin consideration of the conference report to accompany H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004; that there be 60 minutes of debate equally divided; and following the use or yielding back of time, Senate vote on adoption of the conference report on Monday, November 3, 2003, at a time determined by the Majority Leader, after consultation with the Democratic Leader.

Internet Tax Non-Discrimination Act: A unanimous-consent agreement was reached providing that at a time determined by the Majority Leader, after consultation with the Democratic Leader, but not before Thursday, November 6, 2003, Senate begin consideration of the conference report to accompany H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004; that there be 60 minutes of debate equally divided; and following the use or yielding back of time, Senate vote on adoption of the conference report on Monday, November 3, 2003, at a time determined by the Majority Leader, after consultation with the Democratic Leader.

Emergency Supplemental, Iraq and Afghanistan Appropriations Act Conference Report—Agreement: A unanimous-consent agreement was reached providing that at 11 a.m., on Monday, November 3, 2003, Senate begin consideration of the conference report to accompany 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; with the time until 5 p.m. equally divided and that at 5 p.m. the conference report be adopted.

Nomination Considered: Senate resumed consideration of the nomination of Charles W. Pickering, Sr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit.
During consideration of this measure today, Senate also took the following action:
By 54 yeas to 45 nays (Vote No. 419), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the nomination.

Nominations Received: Senate received the following nominations:
1 Army nomination in the rank of general.
2 Navy nominations in the rank of admiral.
Routine lists in the Army, Marine Corps, Navy.

Messages From the House: (See next issue.)
Measures Referred: (See next issue.)
Enrolled Bills Presented: (See next issue.)
Executive Reports of Committees: (See next issue.)
Additional Cosponsors: (See next issue.)
Statements on Introduced Bills/Resolutions: (See next issue.)
Additional Statements: (See next issue.)
Amendments Submitted: (See next issue.)
Notices of Hearings/Meetings: (See next issue.)
Authority for Committees to Meet: (See next issue.)
Privilege of the Floor: (See next issue.)
Record Votes: Fourteen record votes were taken today. (Total—432)
Adjournment: Senate met at 9 a.m., and adjourned at 11:44 p.m., until 10 a.m., on Friday, October 31, 2003. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S13611.)

Committee Meetings
(Committees not listed did not meet)

PALESTINIAN EDUCATION
Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education concluded a hearing to examine the content of Palestinian education materials, including textbooks and films, and the effect such materials have on the peace process, focusing on the United States foreign aid program in the West Bank and the Gaza Strip, and curriculum that promotes principles of human rights, democracy, diversity, tolerance, and pluralism, after receiving testimony from Richard L.
Armitage, Deputy Secretary of State; James Kunder, Deputy Assistant Administrator for Asia and the Near East, U.S. Agency for International Development; Daniel Pipes, U.S. Institute of Peace, and James Zogby, Arab American Institute, both of Washington, D.C.; Itamar Marcus, Palestinian Media Watch, Jerusalem, Israel; Hassan Abdul Rahman, Palestinian Authority, Gaza; and Morton Klein, Zionist Organization of America, New York, New York.

INTERNATIONAL ECONOMIC AND EXCHANGE RATE POLICIES

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the Treasury Department’s report to Congress on international economic and exchange rate policy, after receiving testimony from John W. Snow, Secretary of the Treasury.

UNIVERSAL TELECOMMUNICATIONS SERVICE

Committee on Commerce, Science, and Transportation: Subcommittee on Communications concluded a hearing on the future of Universal Telecommunications Service, focusing on opening local markets to competition and preserving and advancing universal service, as it confronts widespread marketplace and technological developments, after receiving testimony from Michael K. Powell, Chairman, Federal Communications Commission.

NATIONAL PARKS

Committee on Energy and Natural Resources: Subcommittee on National Parks concluded a hearing 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, after receiving testimony from Senator Clinton; Durand Jones, Deputy Director, National Park Service, Department of the Interior; Gregory B. Paxton, The Georgia Trust for Historic Preservation, Atlanta; Sean McKeon, Northeast Regional Forest Foundation, Brattleboro, Vermont; Hans Neuhauser, Georgia Environmental Policy Institute, Athens, on behalf of The Wilderness Society, Wilderness Watch, and The Georgia Conservancy; and Sharon F. Francis, Connecticut River Joint Commissions, Charlestown, New Hampshire.

CALFED BAY-DELTA PROGRAM

Committee on Energy and Natural Resources: Subcommittee on Water and Power concluded a hearing to examine S. 1097, to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program, focusing on authorizing funding for fiscal years 2004 through 2007, as well as governance and management authorities for a comprehensive, balanced and timely water management program for California, after receiving testimony from Representative Calvert; Bennett W. Raley, Assistant Secretary of the Interior for Water and Science; Patrick Wright, California Bay-Delta Authority, and David Guy, Northern California Water Association, both of Sacramento; Tom Birmingham, Westlands Water District, Fresno, California; Sunne W. McPeak, Bay Area Council, San Francisco, California; Ron Gastelum, Metropolitan Water District of Southern California, Los Angeles; and Tom Graff, Environmental Defense, Oakland, California.

U.S.-SYRIA RELATIONS

Committee on Foreign Relations: Committee met in closed session to receive a briefing to examine U.S. policy directions relating to Syria from J. Cofer Black, Coordinator, Office of the Coordinator for Counterterrorism, Department of State.

U.S.-SYRIA RELATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the current direction of U.S. policy towards Syria, focusing on developing a relationship with Syria in the context of furthering goals toward peace, prosperity and democracy in the Middle East, after receiving testimony from William J. Burns, Assistant Secretary for Near Eastern Affairs, and J. Cofer Black, Coordinator, Office of the Coordinator for Counterterrorism, both of the Department of State; and Patrick Clawson, Washington Institute for Near East Policy, Richard W. Murphy, Council on Foreign Relations, Murhaf Jouejati, George Washington University, and Flynt L. Leverett, Brookings Institution, Saban Center for Middle East Studies, all of Washington, D.C.

HIV/AIDS IN AFRICA

Committee on Foreign Relations: Subcommittee on African Affairs met jointly with the Committee on Health, Education, Labor, and Pensions’ Subcommittee on Children and Families to receive a report from Senator Frist relative to the HIV/AIDS Codel to Africa.
ELDER JUSTICE AND PROTECTION

Committee on Health, Education, Labor, and Pensions: Subcommittee on Aging concluded a hearing to examine financial abuse and exploitation of the elderly, focusing on issues that elderly consumers face in today’s investment marketplace, after receiving testimony from Maryland State Attorney General Joseph Curran, Jr., Baltimore; Carol Scott, Missouri Department of Health and Senior Services, Jefferson City, on behalf of the National Association of State Long-Term Care Ombudsman Programs; Robert B. Blancato, National Committee for the Prevention of Elder Abuse, Washington, D.C.; W. Lee Hammond, AARP, Salisbury, Maryland; and Richmond D. Chambers, Chevy Chase, Maryland.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

- S. 1720, to provide for Federal court proceedings in Plano, Texas, with an amendment in the nature of a substitute;
- 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, with an amendment in the nature of a substitute;
- S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to “A Tribute to Survivors” at the United States Holocaust Memorial Museum; and
- The nominations of 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, and David L. Huber, to be United States Attorney for the Western District of Kentucky, Department of Justice.

AGRICULTURE MONOPSONIES

Committee on the Judiciary: Committee concluded a hearing to examine monopsony issues in agriculture, focusing on the buying power of processors in the nation’s agricultural markets, the role of antitrust enforcement in ensuring that agricultural markets are competitive, and the status of producers in an environment of concentrated purchasers of commodities, after receiving testimony from Senator Harkin; R. Hewitt Pate, Assistant Attorney General, Antitrust Division, Department of Justice; DeeVon Bailey, Utah State University Department of Economics and Cooperative Extension Service, Logan; Ronald W. Cotterill, University of Connecticut Department of Agricultural and Resource Economics, Storrs; and Peter C. Carstensen, University of Wisconsin Law School, Madison.

NOMINATIONS

Committee on Veterans Affairs: Committee concluded a hearing to examine the nominations of Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs), who was introduced by Senator Warner, and Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology), who was introduced by Senator Hutchison, after each nominee testified and answered questions in their own behalf.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to call.

House of Representatives

Chamber Action


Additional Cosponsors: (See next issue.)

Reports Filed: Reports were filed today as follows:

- Conference report on 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 (H. Rept. 108-337); and
- H. Res. 424, waiving points of order against the 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 (H. Rept. 108-338). (See next issue.)
Approval of Journal: The House agreed to the Speaker's approval of the Journal of Thursday, October 29 by a recorded vote of 345 ayes to 58 noes with one voting "present", Roll No. 581.

Motions to Adjourn: The House rejected the McGovern motion to adjourn by a yeo-and-nay vote of 86 yeas to 317 nays, Roll No. 580.

The House rejected the Berry motion to adjourn by a recorded vote of 76 ayes to 328 noes, Roll No. 584.

The House rejected the McGovern motion to adjourn by a yeo-and-nay vote of 68 yeas to 346 nays, Roll No. 585.

The House rejected the Hastings of Florida motion to adjourn by a recorded vote of 54 ayes to 360 noes, Roll No. 588.

The House rejected the Oberstar motion to adjourn by a yeo-and-nay vote of 55 yeas to 360 nays, Roll No. 589.

The House rejected the Oberstar motion to adjourn by a yeo-and-nay vote of 59 yeas to 345 nays, Roll No. 590.


Agreed to H. Res. 417, the rule providing for consideration of the bill on Wednesday, October 29.

Flight 100—Century of Aviation Reauthorization Act—Conference Report: The House agreed to the conference report on H.R. 2115, to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, by a recorded vote of 211 ayes to 207 noes, Roll No. 592.

Rejected the Oberstar motion to recommit the conference report with instructions to the conference committee by a yeo-and-nay vote of 197 yeas to 219 nays, Roll No. 591.

Agreed to H. Res. 422, the rule providing for consideration of the bill by a recorded vote of 220 ayes to 199 noes, Roll No. 587, after agreeing on a motion to order the previous question by a recorded vote of 222 ayes to 199 noes, Roll No. 586.

Recess: The House recessed at 1:40 p.m. and reconvened at 3 p.m.


Rejected the Hinchey motion to recommit the conference report to the conference committee by a yeo-and-nay vote of 190 yeas to 229 nays, Roll No. 594.

Agreed to H. Res. 418, the rule providing for consideration of the conference report on Wednesday, October 29.

Suspensions: The House agreed to suspend the rules and pass the following measures:

Expressing gratitude to the members of the U.S. Armed Forces who were deployed in Somalia in 1993: Debated on Tuesday, October 28, 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, by a 2/3 yeo-and-nay vote of 402 yeas with none voting "nay" and one voting "present", Roll No. 582;

Repudiating the anti-Semitic sentiments expressed by Dr. Mahathir Mohamad: Debated on Tuesday, October 28, 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, by a 2/3 yeo-and-nay vote of 411 yeas with none voting "nay" and one voting "present", Roll No. 593; and

Sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States: Debated on Wednesday, October 29, H. Con. Res. 302, expressing the sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003, by a 2/3 yeo-and-nay vote of 416 yeas with none voting "nay", Roll No. 596.

consider a rule on the same day it is reported from the Rules Committee, by a yea-and-nay vote of 217 yeas and 197 nays, Roll No. 597. (See next issue.)

Agreed to H. Res. 424, the rule providing for consideration of the conference report by a voice vote. (See next issue.)

Energy Policy Act of 2003: The House rejected 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, by a yea-and-nay vote of 182 yeas to 232 nays, Roll No. 598. (See next issue.)

Medicare Prescription Drug and Modernization Act of 2003: The House rejected 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 by a yea-and-nay vote of 195 yeas to 217 nays, Roll No. 599. (See next issue.)

Meeting Hour: The House agreed that when it adjourned today, it adjourned to meet at 12:30 p.m. on Tuesday, November 4 for morning-hour debate. (See next issue.)

Calendar Wednesday: The House agreed to dispense with the Calendar Wednesday business of Wednesday, November 5. (See next issue.)

Library of Congress Trust Fund Board: The Chair announced the Speaker’s appointment of Mrs. Elisabeth DeVos of Grand Rapids, Michigan, to the Library of Congress Trust Fund Board. (See next issue.)

Senate Message: Message received from the Senate today appears on page H10133.

Senate Referrals: S. 1405 and S. 1659 were ordered held at the desk, and S. 1590 and S. 1718 were referred to the Committee on Government Reform. Page H10133

Adjournment: The House met at 10 a.m. and adjourned at 12:37 a.m. on Friday, October 31.

Committee Meetings

U.S. CHEMICAL WEAPONS STOCKPILE DESTRUCTION

Committee on Armed Services: Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on Destruction of the U.S. Chemical Weapons Stockpile—Program Status and Issues. Testimony was heard from Henry L. Hinton, Jr., Managing Director, Defense Capabilities Management, GAO; the following officials of the Department of Defense: Patrick Wakefield, Deputy Assistant to the Secretary (Chemical Demilitarization and Counterproliferation); Claude M. Bolton, Assistant Secretary of the Army (Acquisition, Logistics, and Technology); and Michael A. Parker, Director, U.S. Army Chemical Materials Agency; and Craig Conklin, Chief, Nuclear and Chemical Hazards Branch Preparedness Division, Emergency Preparedness and Response Division, Department of Homeland Security.

ENERGY EMPLOYEES WORKERS’ COMPENSATION

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing entitled “Energy Employees Workers’ Compensation: Examining the Department of Labor’s Role in Helping Workers with Energy-Related Occupational Illnesses and Diseases.” Testimony was heard from Shelby Hallmark, Director, Office of Workers’ Compensation Programs, Employment Standards Administration, Department of Labor; John Howard, M.D., Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services; and a public witness.

E-COMMERCE—ONLINE WINE SALES

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled “E-Commerce: The Case of Online Wine Sales and Direct Shipment.” Testimony was heard from Todd Zywicki, Director, Office of Policy Planning, FTC; and public witnesses.

REVIEWING U.S. CAPITAL MARKET STRUCTURE


SERVING THE UNDERSERVED IN THE 21ST CENTURY

Committee on Government Reform: Held a hearing entitled “Serving the Underserved in the 21st Century: The Need for a Stronger, More Responsive Public Health Service Commissioned Corps.” Testimony was heard from Vice Adm. Richard H. Carmona, M.D., Surgeon General, Department of Health and Human Services; C. Everett Koop, M.D., former Surgeon General; and Julius B. Richmond, M.D., and former Surgeon General; and a public witness.
PRIVATE RELIEF BILLS; PROSPECTS FOR AMERICAN WORKERS: IMMIGRATION’S IMPACT

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims approved for full Committee action private relief bills.

The Committee also held an oversight hearing on “The Prospects for American Workers: Immigration’s Impact.” Testimony was heard from public witnesses.

OVERSIGHT—GAO REPORT—OIL AND GAS ACTIVITIES ON FEDERAL LANDS

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the GAO report entitled “Opportunities to Improve the Management and Oversight of Oil and Gas Activities on Federal Lands.” Testimony was heard from Barry T. Hill, Director, Natural Resources and Environment, GAO; and David Smith, Deputy Assistant Secretary, Fish, Wildlife and Parks, Department of the Interior.

OVERSIGHT—INTERNATIONAL COMMISSION—CONSERVATION OF ATLANTIC TUNAS

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the upcoming 18th Regular Meeting of the International Commission for the Conservation of Atlantic Tunas. Testimony was heard from William T. Hogarth, Assistant Administrator, Fisheries, National Marine Fisheries Service, NOAA, Department of Commerce; the following officials of the U.S. International Commission for the Conservation of Atlantic Tunas (ICCAT): Glenn R. Delaney, Commercial Commissioner; and Robert G. Hayes, Recreational Commissioner; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Water and Power approved for full Committee action the following bills: H.R. 142, amended, 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 desalination project; and H.R. 2991, Inland Empire Regional Water Recycling Initiative.

The Subcommittee also held 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. Testimony was heard from the following officials of the Department of the Interior: John Keys III, Commissioner, Bureau of Reclamation; and Robert Hirsch, Assistant Director, Water Resources, U.S. Geological Survey; and public witnesses.

CONFERENCE REPORT—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany 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 against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Young and Representative Obey.

SPACE WEATHER

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing on “What is Space Weather and Who Should Forecast It?” Testimony was heard from Ernest Hildner, Director, Space Environment Center, NOAA, Department of Commerce; John M. Grunfeld, Chief Scientist, NASA; Col. L. Benson, Jr., USAF, Air Force Weather Agency, Department of the Air Force; and public witnesses.

MATH SCIENCE PARTNERSHIP PROGRAM IMPLEMENTATION

Committee on Science: Subcommittee on Research held a hearing on Implementation of the Math Science Partnership Program: Views from the Field. Testimony was heard from public witnesses.

UNSOLICITED COMMERCIAL E-MAIL (SPAM)—IMPACT ON SMALL BUSINESSES

Committee on Small Business: Subcommittee on Regulatory Reform and Oversight held a hearing on the impact of unsolicited commercial e-mail (spam) on small businesses. Testimony was heard from J. Howard Beales III, Director, Bureau of Consumer Protection, FTC; and public witnesses.
OVERSIGHT—FAA’S AIR TRAFFIC
CONTROL MODERNIZATION PROGRAM
STATUS
Committee on Transportation and Infrastructure: Subcommittee on Aviation held an oversight hearing on
The Status of the Federal Aviation Administration’s
Air Traffic Control Modernization Programs. Testi-
mony was heard from the following officials of the
Department of Transportation: Kenneth R. Mead,
Inspector General; and Charles Keegan, Associate
Administrator, FAA; Gerald Dillingham, Director,
Civil Aviation Issues, GAO; and a public witness.

U.S.-CHINA ECONOMIC RELATIONS
Committee on Ways and Means: Held a hearing on
United States-China Economic Relations and China’s
Role in the Global Economy. Testimony was heard
from John B. Taylor, Under Secretary, International
Affairs, Department of the Treasury; N. Gregory
Mankiw, Chairman, Council of Economic Advisers;
Ambassador Josette Shiner, Deputy U.S. Trade Rep-
resentative; Douglas Holtz-Eakin, Director, CBO;
Loren Yager, Director, Office of International Affairs
and Trade, GAO; and Robert Rogowsky, Director,
Office of Operations, U.S. International Trade Com-
mission.
Hearings continue tomorrow.

SECURING FREEDOM AND THE NATION
Permanent Select Committee on Intelligence: Held a hear-
ing entitled “Securing Freedom and the Nation: Col-
lecting Intelligence Under the Law, Constitutional
and Public Policy Consideration.” Testimony was
heard from public witnesses.

DEPARTMENT OF HOMELAND SECURITY
FINANCIAL ACCOUNTABILITY ACT
Select Committee on Homeland Security: Ordered re-
ported, as amended, H.R. 2886, Department of

STRENGTH THROUGH KNOWLEDGE
Select Committee on Homeland Security: Subcommittee
on Cybersecurity, Science, and Research and Develop-
ment held a hearing entitled “Strength Through
Knowledge: Homeland Security Science and Tech-
nology; Setting and Steering a Strong Course.” Tes-
timony was heard from Parney C. Albright, Assist-
ant Secretary, Plans, Programs and Budgets, Depart-
ment of Homeland Security.

Joint Meetings
EMERGENCY SUPPLEMENTAL, IRAQ AND
AFGHANISTAN APPROPRIATIONS ACT
Conferees on Wednesday, October 30, 2003, agreed to
file a conference report on the differences between
the Senate and House passed versions of H.R. 3289,
making emergency supplemental appropriations for
defense and for the reconstruction of Iraq and Af-
ghanistan for the fiscal year ending September 30,
2004.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. D 1186)
H.R. 1900, to award a congressional gold medal
to Jackie Robinson (posthumously), in recognition of
his many contributions to the Nation, and to express
the sense of the Congress that there should be a na-
tional day in recognition of Jackie Robinson. Signed

H.R. 3229, to amend title 44, United States
Code, to transfer to the Public Printer the authority
over the individuals responsible for preparing indexes
of the Congressional Record. Signed on October 29,

S. 1591, to redesignate the facility of the United
States Postal Service located at 48 South Broadway,
Nyack, New York, as the “Edward O’Grady, Wa-
verly Brown, Peter Paige Post Office Building”.

COMMITTEE MEETINGS FOR FRIDAY,
OCTOBER 31, 2003
(Committee meetings are open unless otherwise indicated)

Senate
No meetings/hearings scheduled.

House
Committee on Ways and Means, to continue hearings on
United States-China Economic Relations and China’s Role
in the Global Economy, 9 a.m., 1100 Longworth.
Next Meeting of the SENATE
10 a.m., Friday, October 31

Senate Chamber

Program for Friday: Senate will be in a period of morning business.

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Tuesday, November 4

House Chamber

Program for Tuesday: To be announced.

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